

26 MARCH 1948

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Friday, 26 March 1948

INTERNATIONAL MILITARY TRIBUNAL  
FOR THE FAR EAST  
Court House of the Tribunal  
War Ministry Building  
Tokyo, Japan

The Tribunal met, pursuant to adjournment,  
at 0930.

Appearances:

For the Tribunal, all Members sitting, with  
the exception of: HONORABLE JUSTICE E. H. NORTHCROFT,  
Member from the Dominion of New Zealand, HONORABLE  
JUSTICE B. V. A. ROLING, Member from the Kingdom of  
the Netherlands and HONORABLE JUSTICE JU-AO MEI, Member  
from the Republic of China, not sitting from 0930 to  
1445; HONORABLE JUSTICE E. STUART McDOUGALL, Member  
from the Dominion of Canada, not sitting from 1330 to  
1445.

For the Prosecution Section, same as before.

For the Defense Section, same as before.

(English to Japanese and Japanese  
to English interpretation was made by the  
Language Section, IMTFE.)

MARSHAL OF THE COURT: The International  
1 Military Tribunal for the Far East is now in session.

2 THE PRESIDENT: All of the accused are present  
3 except SHIRATORI and UMEZU, who are represented by  
4 counsel. The Sugamo Prison surgeon certifies that they  
5 are ill and unable to attend the trial today. The  
6 certificates will be recorded and filed.

7 Mr. Brannon.

8 MR. BRANNON: If the Tribunal please, I continue  
9 reading at page 36 (reading:)  
10

11 November 5 - November 26, 1941

12 36-a. SHIMADA explains briefly but adequately  
13 how the decision came about on November 5th to prepare  
14 for war while at the same time steadfastly maintaining  
15 efforts for peace through diplomacy.<sup>1</sup> The High Command  
16 argued that since the imposition of freezing measures  
17 by the United States, Great Britain and the Netherlands  
18 Japan's vital resources were subject to gradual depletion  
19 with no means of replenishing such resources.<sup>2</sup> It was  
20 feared that the materials necessary for war would be  
21 gradually exhausted and Japan would collapse militarily  
22 and economically.<sup>3</sup> SHIMADA, being a military man, no  
23

24 1. T. 34,658

25 2. T. 25,950

3. T. 25,950

4. T. 34,658



1 doubt viewed the situation practically for he told  
2 the Tribunal that the economic encirclement of Japan  
3 had an effect more telling than they dared admit to  
4 the world.<sup>1</sup> They were alarmed at the increasing  
5 armaments of the United States; they took into consid-  
6 eration the American Fleet at Hawaii and its reduced  
7 distance from Japan, and hovering over them was what  
8 they considered to be an unsympathetic and unyielding  
9 attitude of the United States toward negotiations.<sup>2</sup>  
10 The American military and economic aid to China with  
11 the accompanying bitter feeling it aroused among the  
12 Japanese people was viewed along with the military  
13 conferences being carried out by the Allied Powers which  
14 were pointedly directed against Japan.<sup>3</sup>

15 37-a. On November 4, 1941, one day before the  
16 Imperial Conference, a meeting of the military council  
17 lors was held which was a rare proceeding, for such  
18 occasion had not taken place since the establishment  
19 of the military councillor system in 1903.<sup>4</sup> Prince  
20 KANIN, previously Chief of Army General Staff, presided  
21 at the conference and the Emperor submitted the question  
22 as to whether or not it was advisable for the Navy and  
23 Army High Command to draw up operational plans to meet

24 1. T. 34,658

25 2. T. 34,659

3. Ibid.

4. T. 36,329



1 the eventualities which might arise if the Japanese-  
2 American negotiations failed.<sup>1</sup> It was there that  
3 Admiral NAGANO, Chief of Naval General Staff, explained  
4 that if matters continued in their present form the  
5 national strength of Japan would be lost and Japan would  
6 find itself in the worst possible situation. He concur-  
7 red with the government's bending every effort to tide  
8 over the crisis by means of diplomacy but explained that  
9 Japan might be put into a position where there was no  
10 alternative except to commence hostilities and in that  
11 event preparations must be made.<sup>2</sup>

12 38-a. He did not voice the opinion that Japan  
13 could win the war for he said it was bound to be a  
14 protracted one and the result depended upon incorporeal  
15 elements, the total potential of the respective nations  
16 and above all how the world situation develops, which  
17 nobody knows at present.<sup>3</sup> He said that there was a  
18 good chance in the initial operations if the commencement  
19 of war be in December on the basis of respective fighting  
20 strengths in the Pacific.<sup>4</sup>

21  
22 38-b. It was this same Admiral NAGANO who in  
23 July had also told the Emperor that he was not confident

- 24 1. T. 36,329  
25 2. T. 36,330  
3. T. 36,331  
4. T. 36,330, 36,331

of victory at all.<sup>1</sup> NAGANO also said that if Japanese-American negotiations fortunately succeeded, the operational preparations would be countermanded at once.<sup>2</sup>

38-c. The Army Chief of General Staff SUGIYAMA retorted that they must expect and prepare for a protracted war.<sup>3</sup> Not the least of the problems was the case of petroleum. Where the stock available for civilian use would be exhausted by June or July of 1942 in spite of strict rationing,<sup>4</sup> the stock for military use was so small that the Japanese Navy would have been faced with the impossibility of discharging its functions, if the worst came, in less than a year and a half.<sup>5</sup>

39-a. While the government was considering the maximum amount of concessions that could be made and exerting every effort to reach an agreement with the United States within the limits of their ability, the High Command, SHIMADA said, was faced with the problem of being called upon to carry out its function if peace negotiations failed.<sup>6</sup> He, too, speaks of the oil supply, stating that the High Command argued that the Navy had approximately a two years supply of oil with no more

1. Ex. 1125, as corrected  
by Lang. Sec., T. 10,667  
2. T. 36,330  
3. T. 36,331

4. T. 25,950  
5. Ibid.  
6. T. 34,661



1 coming in. The civilian oil could not have lasted more  
2 than six months.<sup>1</sup> Thus, if the High command was to be  
3 called upon to perform in the event of the failure of  
4 diplomatic negotiations they charged that if forced to  
5 wait until the following spring they would be unable to  
6 risk a naval fight if called upon to do so because of  
7 the steadily decreasing oil supply.

8 39-b. SHIMADA said that at all times they  
9 considered that the use of force to break out of the  
10 Allied encirclement was a last measure resort and  
11 purely defensive. "I never entertained a doubt that  
12 Japan or any nation had the sovereign right to act in  
13 self-preservation and to determine for herself what  
14 accumulation of events would entitle her to exercise  
15 that right" said SHIMADA in his testimony before the  
16 Tribunal.<sup>2</sup> Not only was there not a single member of  
17 either the government or high command who wanted war,  
18 but the military men knew too well that Japan had on its  
19 hands the China Affair of over four years duration, which  
20 promised no hope of being successfully terminated.<sup>3</sup>

21 SHIMADA therefore told the Tribunal that "to reason  
22 that we would voluntarily incur additional hostilities  
23

24 1. T. 34,661

25 2. T. 34,659

3. T. 34,660



1 with such powers as the United States and Great Britain  
2 would be to attribute to us unthinkable juvenile military  
3 reasoning."<sup>1</sup>

4 40-a. SHINADA's talk was straightforward, if  
5 the Tribunal please, and the straightforward revelations  
6 of the thinking of an honest military man. It is not  
7 our position here to argue that his conclusions were  
8 right or wrong but only to insist that they were the  
9 result of the workings of an ordinary patriotic mind.  
10 These matters which we have before set out are only a  
11 sketchy scraping of the surface of the events which were  
12 under his observation and before him for consideration.  
13 He had, in addition to these matters, reports submitted  
14 to him by the experts of the Foreign Office whose com-  
15 piled information -- realistic and pointed -- were  
16 enough to cause anxiety in the mind of any government  
17 leader.<sup>2</sup> Thus, he said, concerning the days of  
18 November 5th and thereafter: "It was then, in an atmos-  
19 phere of growing desperation brought on by the factors  
20 which I have described, that caused the government to  
21 take detailed steps for war even though they hoped for  
22 and still felt peace possible through negotiations."<sup>3</sup>

23 40-b. Thereafter, Ambassador KURUKU was dis-  
24

25 1. T. 34,660

2. T. 25,553, 34,680-Def.Doc.1482 (Ex. 3567);  
Def. Doc. 1739 (Ex. 3566)

3. T. 34,662

1 patched to the United States to contribute to the immed-  
2 iate solution of the difficulties.<sup>1</sup> SHIMADA straight-  
3 forwardly testified that there was no subterfuge or  
4 deceit attached to the additional ambassador's going  
5 to the United States, for "it was a fight against the  
6 time element and a redoubling of our efforts to succeed  
7 in diplomacy before we were forced into hostilities."<sup>2</sup>  
8 Not only does SHIMADA state this, but KURUSU himself on  
9 November 17th around 11 A.M. told the President of the  
10 United States personally that Japan was: ". . . desirous  
11 of the success of the negotiations, but the time element  
12 has to be taken into consideration because the economic  
13 and military ability of Japan to defend herself would  
14 deteriorate with procrastination; Japan cannot submit  
15 to complete surrender without doing everything to avoid  
16 it; and therefore, though Japan is earnest about the  
17 success of the negotiations, they must at the same time  
18 be concluded speedily."<sup>3</sup> There was no subterfuge in the  
19 words spoken by KURUSU to the President that the freez-  
20 ing regulation had caused impatience in Japan and a feel-  
21 ing that Japan had to fight while it still could.<sup>4</sup> Unless  
22 this point is clearly understood and believed a great  
23 injustice will result,<sup>5</sup> SHIMADA testified.

25 1. T. 25,982, 34,664  
2. T. 34,664  
3. T. 26,034

4. T. 26,043  
5. T. 34,664



1           41-a. Of supreme importance in bearing upon  
2 the question of whether SHIMADA possessed criminal  
3 intent is his statement that in the days that followed  
4 he was still very hopeful that peace would eventually  
5 come through some diplomatic arrangements.<sup>1</sup> The  
6 honesty of this newcomer in the Japanese Government is  
7 revealed in his words: "It was during this time that  
8 I began to fully appreciate the gravity of affairs."<sup>2</sup>  
9 And it does not sound like a war-minded advocate of  
10 aggressive war or a man with criminal motive or intent  
11 who, with due humility, stated: "This complicated  
12 situation weighed heavily on my mind. Each day I went  
13 to the Shrine to ask for divine guidance so I might  
14 serve the Emperor in bringing about his fervent desires  
15 for peace. I was not a statesman nor a diplomat but I  
16 tried to borrow upon all of the skill and reasoning I  
17 possessed to seek a solution. It was in this mixed  
18 atmosphere of doubt, hope, fear and speculation that  
19 the Full note of November 26th was received."<sup>3</sup>  
20  
21  
22  
23  
24

- 25           1. T. 34,664  
            2. Ibid  
            3. Ibid, T. 34,665



Tossing the Lighted Squib.

42-a. It is well to pause here to note that the TOJO Cabinet had not built the structure of differences existing between Japan and the United States.<sup>4</sup> The pyramiding parade of past events are<sup>5</sup> earmarked by the downfall of the Second<sup>6</sup> and Third KONOYE Cabinets which were, of course, governments in which SHIMADA neither participated nor had knowledge of their workings.<sup>7</sup> The essential differences which plagued these cabinets, and which problems were inherited by the cabinet in which SHIMADA became Navy Minister, are well known to the Tribunal and actually need no further discussion.<sup>8</sup> The testimony of YAMAMOTO, Kumaichi, well supplemented by documentary evidence, is replete with a graphic description of the troubled times and the diplomatic attempts to rectify the hopeless situation.<sup>9</sup>

4. Tr. 25,870-25,872

5. Tr. 25,749

6. Tr. 25,868

7. Tr. 34,650

8. Tr. 25,871: 1. The problem of stationing or withdrawing of troops from China.  
2. Japan's attitude toward the Tripartite Pact.  
3. The problem of non-discriminatory trade in the Pacific area.

9. Ex. 2915, Tr. 25,908

1 43-a. It was Japanese-American negotiation  
2 troubles that caused the fall of the Second KONOYE  
3 Cabinet when the opposition viewpoint of then Foreign  
4 Minister MATSUOKA became more than the government  
5 could tolerate.<sup>1</sup> But the important fact is that  
6 the government fell because it was unable to solve  
7 the Japanese-American differences.

8 43-b. The Third KONOYE Cabinet minus  
9 MATSUOKA and four lesser ministers and with the addi-  
10 tion of the former Vice Minister of Navy, Admiral  
11 TOYODA, as the new Foreign Minister undertook to  
12 tackle again the problem of negotiations with the  
13 United States.<sup>2</sup> The system of the cabinet holding  
14 joint conferences with the Supreme Command in the  
15 Palace was instituted.<sup>3</sup> What progress, or rather,  
16 lack of progress was made in the negotiations has  
17 already been revealed in full. Perhaps keynoting  
18 the efforts of Japan was the proposal of Prince  
19 KONOYE to meet personally with President Roosevelt,  
20 made August 4, 1941 to the War and Navy Ministers.<sup>4</sup>

21 44-a. On the same day such a step found the  
22 Navy completely agreeing, with KONOYE himself reciting  
23

- 24 1. Tr. 25,747  
25 2. Tr. 25,748  
3. Ibid  
4. Tr. 25,766



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- 24 1. Tr. 25,747  
25 2. Tr. 25,748  
3. Ibid  
4. Tr. 25,766



that "the Navy expressed complete accord and, more-<sup>1</sup>  
over, anticipated the success of the conference."

And this approval was given by Navy Minister OIKAWA<sup>2</sup>  
who later so sincerely urged SHIMADA as his successor.  
This offer of the Premier to go abroad had no prece-<sup>3</sup>  
dent in Japanese history. Vice Admiral OKA of the  
Naval Affairs Bureau of the Navy Ministry was en-  
thusiastic and energetic in his attempt to make  
preparations for such a meeting.<sup>4</sup> The United States,  
however, did not choose to ratify or agree to this  
procedure.<sup>5</sup>

44-b. The Third KONOYE Cabinet resigned  
without effecting any results toward the solution  
of Japanese-American differences.<sup>6</sup> On Sunday,  
October 12, 1941 Prince KONOYE met at Ogikubo with  
the Minister of War, the Minister of Navy, the  
Foreign Minister and President SUZUKI of the Cabinet  
Planning Board. The Navy Minister OIKAWA at this  
crucial meeting reached the traditional naval dis-  
taste for engaging in political matters<sup>7</sup> in the  
following statement concerning the continuation of  
negotiations or the going to war:

1. Tr. 25,770

2. Ibid

3. Tr. 25,788

4. Tr. 33,367, 33,391

5. Tr. 25,794

6. Tr. 25,868

7. Tr. 34,669

"We have now indeed come to the crossroads where we must determine either upon peace or war. I should like to leave this decision entirely to the Premier, and, if we are to seek peace, we shall go all the way for peace. Thus, even if we make a few concessions, we ought to proceed all the way with the policy of bringing the negotiations to fruition. If in the midst of negotiations -- after negotiations have gone on for two or three months, one says that 'they won't do from any point of view,' and 'Well, we've got to have war now,' -- the Navy will be put to inconvenience. If we are to have war, we must determine upon war here and now. Now is the time. If we decide that we are not to have war, I should like to have us proceed upon the policy that we will bring negotiations to fruition no matter what happens."<sup>1</sup>

45-a. In leaving the matter to the Prime Minister as head of the government rather than taking upon themselves as a branch of the military to decide this vital issue, criticism was made, whether justly or not, that the Navy took a weak position.<sup>2</sup> Yet the Army and the Government, as well as the Navy, well knew that Prince KONOYE's position

1. Tr. 25,863, 36,303
2. Tr. 36,524, 36,303



1 was solidly behind the continuation of negotiations  
2 as KONOYE himself had so positively stated.<sup>1</sup> Rather  
3 than condemnable it would appear, at least to those  
4 who feel the military should be subservient to the  
5 civilian, that the statement of the Navy's views  
6 was a sound and wise procedure, for it left to the  
7 civil authorities the right to make the decision  
8 which would bind the Navy. That Premier KONOYE  
9 would rather have had the Navy fight his battle for  
10 him by taking a positive stand against the Army,  
11 through direct words rather than relegate the decision  
12 to him, is an understandable but complete extraneous  
13 matter. Other than the naval protest against the  
14 provisions of the 1930 London Naval Treaty no evi-  
15 dence has been presented this Tribunal that the  
16 Japanese Navy cast its influence in matters of state.  
17 This should not be forgotten.

18  
19 46-a. It was the position of the Army  
20 against the withdrawal of troops from China,<sup>2</sup> to-  
21 gether with their contention that war should be  
22 decided upon by the middle of October,<sup>3</sup> that led  
23 to an irreconcilable difference of views in the  
24 government. The Imperial Conference decision of

- 25  
1. Tr. 25,864  
2. Tr. 25,865  
3. Tr. 25,870



1 September 6 recited that if negotiations had no  
2 hope of fulfillment by the beginning of October 1941  
3 Japan should immediately determine to wage war  
4 against the United States, Great Britain and the  
5 Netherlands.<sup>1</sup>

6 46-b. It becomes apparent, therefore, that  
7 the decision to prepare for war was made before any  
8 one contemplated that SHIMADA was to be a cabinet  
9 member.<sup>2</sup> At the September 6th conference they went  
10 so far as to use the words "a decision for war"  
11 which was predicated upon the possibility of  
12 failure of Japanese-American negotiations by the  
13 middle of October.<sup>3</sup> When October came and the  
14 negotiations had fared no better than before the  
15 difference of views of the Army and the Government  
16 pertaining to the execution of this decision ex-  
17 pressed itself openly in the intransigent opinions  
18 expressed at Ogikubo. A new government was formed  
19 and SHIMADA was tossed this lighted squib of irre-  
20 concilable national and international differences  
21 by Admiral OIKAWA who, we submit, must have enter-  
22 tained weak optimism as to the ability of anyone to  
23 bring forth a solidification of thought concerning  
24

- 25  
1. Tr. 35,582  
2. Tr. 25,810, 25,868  
3. Tr. 34,582

Japanese-American problems.

1           47-a. We call attention to the fact that in  
2 the government that had just fallen because of its  
3 inability to solve the problems facing it the Navy  
4 was strongly represented and on the side that  
5 favored settlement of the issues through peace.<sup>1</sup>  
6 Admiral TOYODA was the Foreign Minister, Admiral  
7 NOMURA was the Japanese Ambassador in the United  
8 States, Admiral OIKAWA was, of course, the Navy  
9 Minister and Vice Admiral OKA was the great expo-  
10 nent of the prayerful meeting attempted between  
11 Prince KONOYE and President Roosevelt.<sup>2</sup> Collectively  
12 these powerful naval men had failed to do what  
13 individually SHIMADA likewise could not achieve.  
14 Yet the prosecution would take his life for this  
15 failure!  
16

17           47-b. The "wipe the slate clean policy"  
18 bequeathed to the TOJO Cabinet<sup>3</sup> meant that the  
19 Imperial decision of September 6, that is to go to  
20 war if negotiations had not succeeded by the middle  
21 of October 1941, was to be disregarded.<sup>4</sup> Nothing  
22 else could be wiped clean -- the difference still  
23 existed. The American position was the same. The  
24

25   1.. Ex. 2916, Tr. 25,912   3. Tr. 36,309  
2. Tr. 25,869, Line 9       4. Tr. 25,921



1 Japanese viewpoint was unaltered. It was simply a  
2 matter of continuing negotiations with no new  
3 weapons or new thoughts given to aid the new cabinet  
4 in its efforts toward success by diplomacy.<sup>1</sup> Navy  
5 Minister OIKAWA did not offer any suggestion as to  
6 how to achieve the desired compromise with the United  
7 States and advisable as it was that he left the  
8 matter of war or peace to the government or the  
9 Premier for decision it did not make for a construct-  
10 ive step toward solving the differences.<sup>2</sup>

11 48-a. Why should a special stigma be at-  
12 tached to a government which in November 1941 decided  
13 on the probability of hostilities by December if  
14 diplomatic means availed naught, when the govern-  
15 ment before it had decided in September that the  
16 failure of negotiations by October would lead to  
17 war? Pressuring both decisions was the thought, of  
18 the High Command<sup>3</sup> that to wait until spring would  
19 have found them unable to risk war, and even to  
20 wait until the advent of winter weather would have  
21 greatly hampered if not prevented operations on the  
22 seas. And in the TOJO Cabinet this time element had  
23 reduced itself to where a decision could not be  
24

- 25 1. Tr. 36,303  
2. Tr. 36,303  
3. Tr. 34,662

1 avoided.

2 The Hull Note of November 26th.

3 48-b. At this period when the High Command  
4 was reaching the end of its preparations for hos-  
5 tilities and the government desperately hoping for  
6 a change in the diplomatic picture which could spell  
7 peace, there arrived the so-called Hull Note of  
8 November 26th. Whatever characterization the prose-  
9 cution may have placed on the Japanese reaction to  
10 this diplomatic notice<sup>1</sup> it becomes necessary to  
11 honestly consider what the Japanese reaction actually  
12 was. There is no need for elaboration on its con-  
13 tents but only for a discussion of its effect upon  
14 the accused SHIMADA. He described it as a "jarring  
15 blow." It was unacceptable in Japanese governmental  
16 circles and there was no one who advocated its accept-  
17 ance.<sup>2</sup> The view taken was that it was impossible to  
18 accept the terms thereof and that it was an ultimatum  
19 threatening the existence of Japan.<sup>3</sup> There were in  
20 America those who shared the same interpretation.<sup>4</sup>

21 49-a. SHIMADA stated that:

22 "It seems clear that no nation willingly  
23 relegates itself to a secondary position as a world  
24

25 1. Pros. Argument, para. 6, Tr. 38,952

2. Tr. 34,665

3. Tr. 34,665, 35,830

4. Tr. 10,954



1 power if it can help it. History to this very  
2 minute dictates that every leading power constantly  
3 seeks to preserve its rights, prestige and dignity  
4 and to this end constantly follows a policy which it  
5 deems most beneficial to itself. As a patriotic  
6 Japanese, loving my country, I was confronted with  
7 the question of whether or not Japan could bow to the  
8 American demands and yet preserve its standing in  
9 the world. It would have been treasonable to have  
10 advocated a step contrary to the best interests of  
11 my country."<sup>1</sup>

12 49-b. Thus it was that SHIMADA said in his  
13 opinion the security of Japan was threatened, that  
14 she had a right to determine for herself what accumu-  
15 lation of events would entitle her to act in self  
16 defense and that he formulated his opinion on this  
17 basis. Therefore, if we borrow from the well-estab-  
18 lished internationally expressed reservation that no  
19 treaty or agreement precludes a nation from fighting  
20 in self defense or determining for itself what state  
21 of affairs provokes that right, a personal defense  
22 for an accused who exercises that right as a govern-  
23 mental leader participating in such decision is born.  
24 Has it not been firmly established from the recitation  
25 1. Tr. 34,666

1 of facts that SHIMADA should be a recipient of such  
 2 a defense? Were not his thoughts predicated upon  
 3 such factual matters or circumstances as would lead  
 4 a reasonably prudent man under like or similar cir-  
 5 cumstances to act as did he?

6 50-a. He did not mince words in his testi-  
 7 mony when he said: "I frankly state it was this  
 8 reply of the United States that caused me to step  
 9 the boundary line of peace when the final decision  
 10 was made at the Imperial Conference of December 1,  
 11 1941."<sup>1</sup> However, even at this twilight hour he was  
 12 of the opinion that there would still have been time  
 13 to prevent hostilities had the United States recognized  
 14 that Japan was sincerely attempting to reach a com-  
 15 promise.<sup>2</sup> And to this end there was a standing order  
 16 issued by the Naval General Staff for the Fleet to  
 17 return upon the giving of notice at any time before  
 18 the first blow was struck.<sup>3</sup>

19  
 20 50-b. The prosecution argues that SHIMADA  
 21 and NAGANO advised the Emperor on November 30, 1941  
 22 that the Japanese Navy's preparations for war against  
 23 the United States and Great Britain were adequate  
 24 and satisfactory.<sup>4</sup> Such is quite correct except that

25 1. Tr. 34,666

2. Ibid

3. Tr. 26,727, 26,768

4. Pros. Argument, para. TT-10,  
 Tr. 41,662



1 SHIMADA on cross-examination explained that the ques-  
2 tion of confidence in the ultimate outcome of the war  
3 was not the theme of the conversation but only as to  
4 whether they were confident of the preparations which  
5 the Navy had made.<sup>1</sup> He said the inquiry from the  
6 Throne on that day to Admiral NAGANO as Chief of  
7 Naval General Staff was "what was the state of the  
8 operational plans?" and to him the inquiry from the  
9 Emperor was what was the state of preparations as far  
10 as the Navy Ministry was concerned. Both he and  
11 NAGANO answered that preparations were completed.  
12 SHIMADA said he spoke of preparation in connection  
13 with personnel and materials and that everything  
14 possible was being done in that regard.<sup>2</sup> We sub-  
15 mit that SHIMADA did no wrong in speaking the  
16 truth. The converse is to contend that he should  
17 have told the Emperor that the Navy was not prepared  
18 for action and in doing so have lied to the head of  
19 the state.

20 51-a. The KIDO Diary entry concerning this  
21 matter is discussed by KIDO himself<sup>3</sup> in his testimony.  
22 He denounces the prosecution interpretation that the  
23 Navy Minister and Chief of Naval General Staff had

- 24 1. Tr. 34,700  
25 2. Tr. 34,701  
3. Tr. 31,046

1 given affirmative answers as to the success of the  
2 war.<sup>1</sup> It is clearly shown that the question was  
3 whether the Navy's hands were too full to engage in  
4 new operations.<sup>2</sup> SHIMADA volunteered nothing; he was  
5 asked by the Emperor. It was his duty to answer.<sup>3.</sup>

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1. Tr. 31,047  
2. Tr. 31,046  
3. Tr. 34,700



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51-b. The Navy was never confident of  
winning the war.<sup>1</sup> But, as SHIMADA said, they were  
confident that they were better prepared at that time<sup>2</sup>  
to fight than they would have been at any later date.  
This is reasonable in face of the evidence hereto-  
fore given concerning Japan's diminishing war poten-  
tial. NAGANO previously had told the Emperor in  
July 1941 that he was not confident of a victory over  
the United States at all. He made no optimistic state-  
ment to the Liaison Conference of November 1<sup>3</sup> and  
later on November 4 he refused to say that Japan could  
win the war.<sup>4</sup> Thus it would have been manifestly a  
reversal not subject to reasonable acceptance had he  
voiced his opinion to the Emperor that the Navy was  
confident of victory. His contrary statements of  
only a few days before not to mention his personal  
statement to the Emperor in July would have provided  
an inconsistency too glaring for anyone's acceptance.  
Common sense in view of these facts demands SHIMADA's  
recital of that conference with the Emperor be  
accepted.<sup>5</sup> At this time the Emperor well knew that  
there was a unanimous agreement on the necessity of  
going to war.<sup>6</sup>

(1. Tr. 30,654, 36,331. (4. Tr. 36,331.  
2. Tr. 34,666. 5. Tr. 34,667.  
3. Tr. 30,654. 6. Tr. 35,711.)

Initiating Hostilities and the  
Final Notification.

52-a. It is established that the operational plans and procedures were solely within the responsibility and workings of the Naval General Staff<sup>1</sup> whose head was directly answerable to the Emperor. SHIMADA was first informed of the Pearl Harbor Attack after becoming Navy Minister October 18th, 1941<sup>2</sup> and had nothing whatsoever to do with the drafting of the operational plans either for the Pearl Harbor Attack or other naval operations.<sup>3</sup> The empty prosecution charge to the contrary was never nourished by evidence.<sup>4</sup>

53-a. SHIMADA's alleged membership in the Imperial General Headquarters was fully explained as being a technical membership only.<sup>5</sup> The Imperial General Headquarters which had no central office or singular building was actually composed of the Army General Staff and the Naval General Staff.<sup>6</sup> SHIMADA did not attend any of the operational discussions that were held by the Naval General Staff and could not have attended those held by the Army.<sup>7</sup> SHIMADA himself told the Tribunal without contradiction that

(1. Ex. 2982, Tr. 26,430, 34,663, 34,627. (4. Tr. 10,194, 34,662.  
2. Tr. 34,627. 5. Tr. 34,676  
3. Ibid. 6. Tr. 34,628  
7. Tr. 34,676, 34,628.)



1 he never attended any of the meetings and had no  
2 right to do so, and having no voice in such matters  
3 as operational and strategic problems it would have  
4 been inappropriate for him to have attended.<sup>1</sup>

5 53-b. The prosecution does not and cannot  
6 seriously contend that SHIMADA had any direct respon-  
7 sibility concerning the operational orders for the  
8 opening of hostilities but they do charge that he  
9 is to be held answerable for the alleged failure to  
10 give proper notice of the commencement of such  
11 hostilities in compliance with Hague Convention III.<sup>2</sup>

12 54-c. The Tribunal has heard much testimony  
13 relative to the Navy's position in regard to the giving  
14 of notice before the opening of hostilities. Actually  
15 it is only relevant in so far as it bears upon the  
16 accused Admiral SHIMADA. At no time has either the  
17 prosecution or defense even suggested that SHIMADA  
18 took a stand in opposition to the delivery of any  
19 notification. The man who brought the charge that the  
20 Naval General Staff opposed the giving of notice  
21 specifically excluded SHIMADA from his accusation.<sup>3</sup>

22 It was the contention of TOGO that Vice Chief of  
23 Naval General Staff ITO demanded that negotiations be  
24

25 (1. Tr. 34,676

2. Pros. Argument par. TT-45,

Tr. 41,690.

3. Tr. 35,834 (TOGO).

1 left unterminted in order that the war be started  
 2 with the maximum possible effectiveness. However he  
 3 never attributed such a statement to NAGANO, the  
 4 Chief of Naval General Staff either upon direct or  
 5 cross-examination. He was quite careful in wording  
 6 his statements so as to never say NAGANO advocated  
 7 an attack without notice. He would only say that  
 8 NAGANO spoke of "a surprise attack,"<sup>2</sup> a matter which  
 9 we shall discuss in a moment.

10 54-b. TOGO having testified that Admiral  
 11 NAGANO wanted to carry out a surprise attack<sup>3</sup> stated  
 12 that on December 5th, four days later, (that perhaps  
 13 should be three days later) NAGANO said that "this  
 14 was a very important note and should be delivered to  
 15 Secretary Hull personally."<sup>4</sup> He was asked on cross-  
 16 examination to explain why, if NAGANO was so opposed  
 17 to the notice, he then insisted on this direct method  
 18 of delivery to the Secretary of State of the United  
 19 States.<sup>5</sup> He answer was that

21 " \* \* \* NAGANO very carefully noticed  
 22 and gave his attention to matters of diplomatic  
 23 procedure when he said that it would be better

- 24 (1. Tr. 35,714, 35,715.  
 25 2. Tr. 35,834, 35,715.  
 3. Tr. 35,714.  
 4. Tr. 35,722.  
 5. Tr. 35,854.)



1 to have the note, being such an important  
2 one, delivered to the Secretary of State.  
3 And I even gained the impression that Admiral  
4 NAGANO, having attended international con-  
5 ferences such as those held in Geneva and  
6 London paid attention - he gave his full  
7 attention to such matters of procedure."<sup>1</sup>

8 The Tribunal's attention is called to this obvious  
9 inconsistency.

10 55-a. TOGO's assistant YAMAMOTO, Kumaichi  
11 who confirmed TOGO's story, also told the Tribunal  
12 that, "It was on the 2nd of December that the Liaison  
13 Conference agreed that with respect to the time for  
14 the notification to be delivered, the Foreign Minister  
15 and the High Command should consult each other and  
16 draw up - or come to a conclusion on the matter."<sup>2</sup>

17 55-b. The accused SHIMADA does not recall  
18 a Liaison Conference on December 2nd, 1941, and he  
19 so testified.<sup>3</sup> The accused MUTO stated no Liaison  
20 Conferences were held on December 2nd, 1941.<sup>4</sup> Ob-  
21 viously TOGO doubted the memory of his Chief assistant  
22 YAMAMOTO, whose testimony he must have perused beforehand,  
23

- 24 (1. Tr. 35,854.  
25 2. Tr. 26,125.  
3. Tr. 34,674.  
4. Tr. 33,156.)

for when TOGO testified he sidetracked the issue

1 saying the discussion came up "at the first Liaison  
2 Conference following the Imperial Conference."<sup>1</sup> We  
3 submit there is a strong question as to whether or  
4 not there was ever a meeting held on the date that  
5 the alleged statements are supposed to have been made  
6 and we further submit that TOGO's memory may not just-  
7 fy his charge as to the absence of that quality in  
8 his fellow accused.<sup>2</sup>

9 56-a. But not to pursue the matter unneces-  
10 sarily it is sufficient to call to the Tribunal's  
11 attention that counsel on every possible occasion  
12 sought to question any accused regarding the alleged  
13 naval opposition to the giving of notice who took  
14 the witness box. SHIMADA testified that TOJO, SUZUKI,  
15 KAYA, HOSHIRO, OKA and MUTO did not recall such a  
16 matter occurring.<sup>3</sup> MUTO said that it was an important  
17 matter and if it had occurred he would have remembered  
18 it and his words were, "I do not remember having heard  
19 Admiral ITO advocating an attack against the United  
20 States without warning."<sup>4</sup> Admiral OKA said that he  
21 had never heard from any source whatsoever that the  
22 Naval General Staff entertained any such idea.<sup>5</sup> The

24 (1. Tr. 35,714.  
25 2. Tr. 34,835.  
3. Tr. 33,674.

(4. Tr. 33,156, 33,157  
5. Tr. 33,403.)



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13 naval opposition to the giving of notice who took  
14 the witness box. SHIMADA testified that TOJO, SUZUKI,  
15 KAYA, HOSHIRO, OKA and MUTO did not recall such a  
16 matter occurring.<sup>3</sup> MUTO said that it was an important  
17 matter and if it had occurred he would have remembered  
18 it and his words were, "I do not remember having heard  
19 Admiral ITO advocating an attack against the United  
20 States without warning."<sup>4</sup> Admiral OKA said that he  
21 had never heard from any source whatsoever that the  
22 Naval General Staff entertained any such idea.<sup>5</sup> The

24 (1. Tr. 35,714.  
25 2. Tr. 34,835.  
3. Tr. 33,674.

(4. Tr. 33,156, 33,157  
5. Tr. 33,403.)

1 accused KAYA testified "I have no recollection of  
2 ever hearing any such thing at any of the Liaison  
3 Conferences I attended."<sup>1</sup> TOJO likewise disturbs  
4 TOGO's story by saying that such a thing actually did  
5 not happen.<sup>2</sup> TOJO also verified the fact that SHIMADA  
6 and NAGANO had questioned him in Sugamo Prison con-  
7 cerning this story of TOGO at which time he gave them  
8 the same answer he gave the Tribunal.<sup>3</sup> Upon cross-  
9 examination TOGO was reminded that SHIMADA, TOJO,  
10 SUZUKI, KAYA, HOSHINO, OKA and MUTO did not remember  
11 the incident and he was asked if he was prepared to  
12 say all of these men were actually lying.<sup>4</sup> His answer  
13 was that he had no confidence in their memory.<sup>5</sup>

14 57-a. TOGO had first told his story about  
15 the naval opposition to the sending of a notification  
16 before being interned with the rest of the accused in  
17 Sugamo Prison. Upon hearing of his account of the  
18 matter NAGANO and SHIMADA took a poll of their  
19 fellow defendants who had attended the Liaison  
20 Conferences.<sup>6</sup> Since every one was solidly against  
21 the TOGO story, shortly after the incarceration of  
22 TOGO he was engaged in conversation by NAGANO and  
23

- 24 (1. Tr. 30,661.  
25 2. Tr. 36,528.  
3. Tr. 36,528.  
4. Ibid.  
5. Tr. 37,030.)



1  
2 SHIMADA,<sup>1</sup> which was their first opportunity to talk  
3 over the matter with him.

4 57-b. TOGO was told what the other accused  
5 had to say about the matter and undoubtedly there  
6 sprang up between TOGO, SHIMADA and NAGANO some  
7 bitterness. It was thus that TOGO gave vent to his  
8 personal feelings when upon cross-examination by  
9 SHIMADA's counsel he testified that SHIMADA had re-  
10 quested him not to say anything about the Navy desiring  
11 to carry out a surprise attack and also said something  
12 in the nature of a threat if he did so.<sup>2</sup> Upon being  
13 asked of the nature of the threat he said, "I did  
14 not consider it a threat to do me bodily harm"<sup>3</sup> and  
15 "I was not able to get specifically what the person  
16 who threatened me was intending to do."<sup>4</sup> And TOGO was  
17 not concerned with asking what was meant by the "threat."  
18 TOGO would not say it was a threat but only "words  
19 which sounded like a threat."<sup>5</sup>

20 58-a. Hence it was that SHIMADA requested  
21 the right to again take the stand to refute this  
22 story.<sup>6</sup> Actually the TOGO tale involved only two  
23 men -- NAGANO and ITO -- who in the indifference of  
24 death could hardly be plagued by his story. Yet SHIMADA

25 (1. Tr. 37,030.  
2. Tr. 35,838.  
3. Tr. 35,976.

(4. Tr. 35,977.  
5. Ibid.  
6. Tr. 35,859.)

accepted it as offensive not only to the organization  
1 in which he had served for so many years but to him-  
2 self personally. We call to the Tribunal's attention  
3 in so far as the credibility of the two men is con-  
4 cerned, and this is perhaps the only importance of  
5 the matter, that since only three men knew about the  
6 conversation,<sup>4</sup> one of whom is dead, SHIMADA could well  
7 have denied the whole story if he was adept at pre-  
8 varification. But in his straight-forward manner he  
9 told the Tribunal the actual story. It was pointed  
10 out that it would have been ridiculous for SHIMADA  
11 or NAGANO to have attempted to prevent TOGO from  
12 telling his tale since TOGO had already made this  
13 statement on several occasions before and could not  
14 have retracted it without putting himself in an  
15 embarrassing position.<sup>3</sup>

17 58-b. As SHIMADA said, "to have made a threat  
18 to him would have been both absurd and unthinkable  
19 and nothing was said which could have led him to  
20 this belief."<sup>4</sup> We also call to the Tribunal's  
21 attention that counsel for the accused TOGO attempted  
22 to prevent SHIMADA from testifying by joining with

- 23 (1. Tr. 35,859.  
24 2. Tr. 35,839.  
25 3. Tr. 37,031.  
4. Tr. 37,031.



the prosecution in making objections to SHIMADA's  
 1 rebuttal affidavit.<sup>1</sup> And it is likewise called to  
 2 the Tribunal's attention that upon conclusion of  
 3 SHIMADA's testimony counsel for TOGO did not attempt  
 4 to cross-examine.<sup>2</sup> All of which detracts from such  
 5 comments as may be forthcoming in the ex parte safety  
 6 of their summation. If the prosecution honestly  
 7 believes there were "other occasions" when TOGO was  
 8 "threatened," as they would now infer<sup>3</sup> they had full  
 9 opportunity to bring them out. How can they now  
 10 speculate so in their argument?  
 11

59-a. No one doubts or has any evidence  
 12 been offered to the contrary that the Foreign Minister  
 13 was chargeable with diplomatic matters.<sup>4</sup> Certainly  
 14 the final notification to the United States fell  
 15 within this category of duties.<sup>5</sup> The government left  
 16 the physical fact of the note's construction and con-  
 17 tents to the Foreign Minister with the Navy General  
 18 Staff interested mainly in the time element of delivery.<sup>6</sup>  
 19 That there was complete agreement between all parties  
 20 concerned including the Foreign Minister and the Naval  
 21 General Staff with respect to the giving of the  
 22

23 (1. Tr. 37,028.

24 2. Tr. 37,034.

25 3. Pros. Argument par. TT-49,  
 Tr. 41,696.

(4. Tr. 26,131.

5. Tr. 34,723.

6. Tr. 26,135.)

notification before any attack was carried out is  
the admission of TOGO himself.<sup>1</sup>

60-a. SHIMADA stated it well when he said:

"It was my firm belief that in respect to  
such matters I could rely upon the knowledge  
and skill of the Foreign Minister and his  
experts. Consequently, I never felt any con-  
cern about the procedure that was adopted  
until the question was raised after the end  
of war."<sup>2</sup>

Or as the Prime Minister himself testified when asked  
in effect if he depended upon the Foreign Minister  
for his understanding of the law relative to the last  
notification, "I depended exclusively on the views of  
the Foreign Minister."<sup>3</sup>

60-b. Although TOGO was asked if he did not  
feel it was his duty to advise the liaison members  
concerning the law in regard to the procedure of the  
note he said that he advised them to take the customary  
procedure but that there was no discussion on whether  
or not hostilities commenced by Japan one hour after  
giving the notice would be in compliance with the law.<sup>4</sup>  
He further said that his advice was premised on the

- (1. Tr. 35,856.  
2. %4. 34,673.  
3. Tr. 36,532, 34,722.  
4. Tr. 35,846.)



fact that all those present were generally familiar  
1 with provisions of international law and that he had  
2 no intention of conducting a lecture.<sup>1</sup> He did not  
3 consider it his duty to give special explanations  
4 because "cabinet ministers are naturally generally  
5 informed about international law."<sup>2</sup> Yet, if the Tri-  
6 bunal please, in his direct testimony TOGO went to some  
7 length to explain that he himself was not an expert on  
8 international law and hence studied at great length  
9 on the matter pertaining to the notification as well  
10 as consulting several expert authorities on inter-  
11 national law for legal opinion.<sup>3</sup>  
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(1. Tr. 35,847.

2. Ibid.

3. Tr. 35,723.)

61-a. Suffice it is to say that the "sur-  
prise attack" contemplated by the Navy through its  
spokesman NAGANO was the same kind as fully explained  
in the United States Rules of Land Warfare, the Brit-  
ish Manual of Military Law and the Japanese Naval  
Manual, all of which provide that a surprise attack  
is still possible even under the terms of the Hague  
Convention III relative to the commencement of hos-  
tilities.<sup>1</sup> The President himself stated:

"Obviously an ultimatum does not prevent a  
surprise attack. The ultimatum does not in-  
dicate when and where the attack is coming  
and its nature."<sup>2</sup>

In these concise words the President expressed what  
counsel so clumsily had endeavored to without success.  
The evidence reveals that the Navy fully expected to  
be apprehended by American forces at least an hour  
before the attack.<sup>3</sup> And hence as far as they were  
concerned it would have made no difference whatsoever  
whether a declaration of war in the strongest of lan-  
guage had been sent to the United States or the notice  
as it was written by TOGO. Thus Admiral OKA could see  
no reason for not adding positive words to the

1. T. 36,117, 42,455
2. T. 36,118
3. T. 26,729, 26,769



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1. T. 36,117, 42,455
2. T. 36,118
3. T. 26,729, 26,769

1  
notification.

1           61-b. In spite of the openly expressed ill-  
2 feeling of the accused TOGO for SHIMADA he told this  
3 Tribunal in no uncertain words that "not once has  
4 SHIMADA proposed going to war without negotiation  
5 first."

6           Conventional War Crimes and

7           Crimes Against Humanity

8           62-a. SHIMADA carefully explained that the  
9 duties of the Navy Minister in regard to prisoners  
10 of war entailed the issuance of regulations providing  
11 for their handling. In pursuance of this responsi-  
12 bility the Ministry did issue regulations, one of  
13 which is exhibit 3055<sup>3</sup>. It is hardly necessary to re-  
14 mind the Tribunal that the prosecution has introduced  
15 no orders issuing from the Navy Ministry or General  
16 Staff which would command or permit the mistreatment  
17 of prisoners of war.  
18

19           62-b. In connection with the Naval Minister-  
20 ial Notification, here referred to, it is shown to the  
21 contrary that regulations in compliance with existing  
22 international practices were promulgated. However,  
23

- 24 1. T. 33,322  
25 2. T. 35,833  
3. T. 27,276  
4. T. 27,362



1 it may be quite correct to pursue the matter from the  
2 position taken by the President when he stated "It  
3 isn't what they said that matters, it is what they did  
4 that matters."<sup>1</sup> In accordance with this theme it is  
5 mandatory upon the prosecution to prove that the Min-  
6 istry was so constituted as to permit SHIMADA's con-  
7 trol over such matters.

8 62-c. After reception of such regulations as  
9 the Navy Ministry issued it became the duty of the  
10 commanders in chief of the various areas wherein the  
11 prisoners might be located to follow and enforce such  
12 directives.<sup>2</sup> In turn they could issue such orders as  
13 were deemed necessary to fit the immediate circum-  
14 stances confronting them so long as they were in har-  
15 mony with the provisions of the Ministry regulations.<sup>3</sup>  
16 SHIMADA testified that the facts adduced here during  
17 the trial were his first appraisal of such misdeeds of  
18 naval personnel and he was shocked and ashamed.<sup>4</sup> He  
19 assumed a moral responsibility for the conduct of men  
20 on the scene but such is not to be confused with the  
21 important factor of chain of command responsibility.<sup>5</sup>

22 63-a. The Navy Ministry was not consulted

- 23 1. T. 27,275  
24 2. T. 35,669  
25 3. Ibid.  
4. T. 34,670  
5. T. 34,670

by the Naval General Staff in connection with operational orders; and in case of an engagement with the enemy, prisoners of war at the zone of operation were under the complete command of the commanders in the field.<sup>1</sup> The remoteness of the Navy Minister seated in Tokyo from activities on the battle field must constantly be borne in mind.

63-b. Quoting a man described as the Director of War Crimes Prosecution, Pacific Ocean Area, Captain (now Rear Admiral) Murphy the prosecution sets forth the following words:

"The pattern of the policy of the Japanese Government seemed to be to require and permit local military commanders to unlawfully kill on the spot all prisoners of war, except certain ones wanted for questioning by higher authority or other specific purposes unknown."<sup>2</sup>

Quite understandably no attempt was made to read these words into the transcript. As an opinion and conclusion on an important issue they are an invasion of the province of this Tribunal and certainly should have been disallowed if a reading had been attempted.

64-a. This same affiant states that of 698 persons that were known to have been lost in the

1. T. 27,363

2. Ex. 2057, T. 15,042



1 Pacific area many of them were undoubtedly killed in  
2 battle, but, on the other hand, many were captured by  
3 the Japanese.<sup>1</sup> He also states that "investigations  
4 show that 149 Americans were illegally executed by the  
5 Japanese military authorities while being held as  
6 prisoners of war in the Pacific Ocean areas."<sup>2</sup> We sub-  
7 mit that from the very limited statistics given by  
8 this man upon whose opinion the prosecution relies to  
9 show a governmental pattern of conduct it is proven  
10 that there was no such policy.

11 64-b. In regard to the alleged atrocities  
12 committed on Kwajalein the prosecution quoted the pur-  
13 ported words of Admiral ABE in command of the island:<sup>3</sup>

14 "However, a directive was issued to me  
15 from the Highest Naval Central Headquarters to  
16 dispose of them (prisoners of war) on my island,  
17 and I had nothing to do but obey it without  
18 question."

19 They neglected, however, to set forth from the same  
20 record and from their own evidence other statements  
21 of ABE which completely destroy the import of this  
22 quotation and are quite incompatible with the theory  
23 advanced. ABE was asked as to the identity of the  
24

25 1. T. 15,044

2. Ibid.

3. Pros. Argument para. TT-58, T. 41,702

officer giving him the orders and he said:

"Lieutenant Commander OKADA, Sadatomo.

From my present viewpoint, I can not definitely say whether the personal opinion expressed by Lieutenant Commander OKADA was the policy of the Navy, but at the time I believed it was the policy of the Navy and that is why I did it.<sup>1</sup>"

65-a. He was also questioned prior to this statement concerning the alleged naval policy announced by the Navy Staff officer Lieutenant Commander OKADA and the prosecution evidence shows this answer of ABE:

"The staff member (OKADA) did not bring back orders and he did not order me to carry out the executions on the spot, but he expressed the opinion which I took to be the Navy policy that that would be the thing to do and I agreed."<sup>2</sup>

We submit that the prosecution shatters its own contention by its own evidence.

65-b. The reading of this prosecution exhibit<sup>3</sup> revealed statements made to ABE as to the effect of his telling a lie and committing the crime of perjury.<sup>4</sup> At the conclusion of the reading of the document the President remarked that the

1. T. 15,029

2. Ibid.

3. Ex. 2055-C, T. 15,025

4. T. 15,028



1           "\* \* \* evidence was obtained by a threat,  
2           of course, but what the attitude of the Members  
3           of the Tribunal will be to evidence obtained  
4           by threat, of course, is a matter for them en-  
5           tirely."<sup>1</sup>

6           65-c. The witness TOMIOKA, formerly Chief of  
7           the First Section of the Naval General Staff, was  
8           called to the witness stand by the defense and testi-  
9           fied that he gave orders to Lieutenant Commander Soda-  
10          tomo OKADA, Staff Officer of the Naval General Staff,  
11          to go to Kwajalein and other islands for the purpose  
12          of re-examining the defense projects in the Pacific  
13          Ocean area. Such a move was the result of a decision  
14          early in October of 1942 of Imperial Headquarters to  
15          organize a combined inspection party from both the  
16          Army and the Navy for front line defense inspections.<sup>2</sup>  
17          They were sent to the Marshall Group, the Mariannas,  
18          the Carolines, the Solomons, New Britain Islands and  
19          others, and TOMIOKA personally instructed Lieutenant  
20          Commander OKADA who was his subordinate. He abso-  
21          lutely denied that he gave OKADA orders for Vice Ad-  
22          miral ABE concerning prisoners of war, and told the  
23          Tribunal that the First Section of the Naval General  
24          Staff

- 25       1. T. 15,029-30  
       2. Ex. 3057, T. 27,284  
       3. T. 27,285

1 Staff did not handle matters dealing with prisoners  
2 of war, such being beyond the scope of his authority  
3 and he could not have given any such orders or instruc-  
4 tions.<sup>1</sup>

5 66-a. He was told of Vice Admiral ABE's  
6 statement to the effect that ABE was informed by Staff  
7 Officer OKADA that the disposition of Central Author-  
8 ities was to execute prisoners where they were captured  
9 and not send them to Japan. To this TOMIOKA definitely  
10 stated that he knew nothing about it and that ABE's  
11 statement differed greatly from the Japanese Navy's  
12 official forms for forwarding orders.<sup>2</sup> TOMIOKA told  
13 the Tribunal that there was positively no form for for-  
14 warding an oral order through a third person and that  
15 he did not know of any case where an order or instruc-  
16 tion was forwarded directly to a unit under the command  
17 of the fleet from General Headquarters without first  
18 going through the Fleet Headquarters.<sup>3</sup> OKADA was killed  
19 in the Philippines in December, 1944.<sup>4</sup>  
20  
21  
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- 24 1. T. 27,286  
25 2. T. 27,287  
3. T. 27,287  
4. T. 27,289



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19 in the Philippines in December, 1944.<sup>4</sup>  
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- 24 1. T. 27,286  
25 2. T. 27,287  
3. T. 27,287  
4. T. 27,289

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1           67-a. The prosecution reference to a report  
2 of the executions on Wake Island being forwarded to  
3 the Navy Ministry Bureau of Military Affairs is based  
4 upon evidence which also reveals that Admiral SAKAI-  
5 BARA concocted a false story and this was the one  
6 related to the Navy Department in Tokyo.<sup>3.</sup> Again  
7 the evidence revealed the executions were a result of  
8 imminent enemy invasion by a convoy on October 7,  
9 1943, which had been sighted off the island.<sup>4.</sup> The  
10 evidence reveals that the commander of Wake Island  
11 in the initial period of the Japanese invasion  
12 telegraphed the Commander in Chief of the Fourth  
13 Fleet and the Commander in Chief of the Combined  
14 Fleet concerning the captured prisoners. At the same  
15 time the information was relayed to the Naval General  
16 Staff and the Navy Ministry. Arrangements were made  
17 for the transportation of the prisoners from Wake  
18 Island to Japan for delivery to the army.<sup>5.</sup> Many  
19 of the prisoners were ill and others voluntarily  
20 wished to remain on the island. The Ministry informed  
21 them by cable to have every prisoner voluntarily  
22

23 1. T. 27287.

24 2. T. 27289.

25 3. Ex. 2036-A, 2036-B - T. 14972-14983.

4. Ibid.

5. T. 27364.



1 sign an agreement to engage in work on the island  
 2 not directly connected with combat.<sup>1.</sup> The prosecu-  
 3 tion states that the executions were reported to  
 4 Fourth Fleet Headquarters at Truk<sup>2.</sup> but this the de-  
 5 fense has been unable to verify for it does not appear  
 6 in the transcript at that place.

7 68-a. In exhibit 2038<sup>3.</sup> the prosecution  
 8 offered the statement of a Japanese prisoner of war  
 9 guard aboard the Nitta Maru which took some 1200  
 10 Japanese prisoners of war from Wake Island in January  
 11 of 1942. As to the atrocities committed aboard that  
 12 ship the prosecution's own witness said:

13 "I am sure that Captain SAITO did not report  
 14 the execution of the five American prisoners of war  
 15 aboard the Nitta Maru in January 1942 to his superiors  
 16 at the Kure Naval Training Station."<sup>4.</sup>

17 That the Navy Ministry was not notified of  
 18 this incident is confirmed by the witness TAKATA who  
 19 was employed therein as Chief of Section One of the  
 20 Naval Affairs Bureau.<sup>5.</sup> The prosecution evidence  
 21 recites the robbing of prisoners, taking of wrist  
 22

23 1. T. 27367.

24 2. Pros. Argument para. TT-58 - T. 41701; Ex. 2057 -  
 T. 15042.

25 3. T. 14992.

4. T. 14999.

5. T. 27369.

1 watches and rings which were distributed among the crew,  
2 all of which indicates irresponsible action initiated  
3 solely on the part of the captain of the ship.

4 68-b. Horrible as this evidence is, it is  
5 merely indicative of isolated action destroying the  
6 assumption that it was the policy of the Japanese  
7 Government to permit or order such conduct, and reveals  
8 that such matters were not reported to the authorities.  
9 The prosecution stated that 14 protests and inquiries  
10 from the United States Government regarding the  
11 civilian prisoners captured on Wake Island were dis-  
12 regarded by SHIMADA and other Japanese defendants of  
13 the navy and foreign office.<sup>2.</sup> They forget to tell  
14 the Tribunal that the first eight exhibits were in-  
15 quiries concerning the American personnel on Wake  
16 Island and were not protests of mistreatment. The  
17 latter six communications were received when SHIMADA  
18 was not in office either as Navy Minister or Chief of  
19 Naval General Staff.<sup>3.</sup> The evidence does not show  
20 that such requests were forwarded to the Navy Minister  
21 for action.  
22

23 69-a. In regard to the prosecution's state-  
24 ment that evidence was presented of the execution  
25

1. T. 14999.

2. Pros. Argument para. TT-59 -T.41703; T.15001-15042.

3. Ex. 2048-2053 -T.15001.



1 of Allied fliers on Chi-Chi Jima in the Bonin Islands  
 2 from August 1944 through March 1945 by Japanese Army  
 3 and Navy officers it is to be observed that SHIMADA  
 4 was no longer either Navy Minister or Chief of Naval  
 5 General Staff at this time. They also state without  
 6 the support of evidence that these executions were  
 7 reported to higher naval authorities.<sup>1.</sup> And in check-  
 8 ing the citation<sup>2.</sup> we are unable to find at the page  
 9 designated or thereabouts the statement the execution  
 10 of fliers took place. There is only the statement  
 11 that war crimes were discovered among other places on  
 12 Chi-Chi Jima Island, Bonin Islands. Again their  
 13 argument<sup>3.</sup> that there was a massacre of American  
 14 prisoners on Palawan Island on 14 December 1944 should  
 15 have included the statement that at this time SHIMADA  
 16 had been retired from office for some six months.

17 70-a. The prosecution states the alleged  
 18 attack on the hospital ship Op Ten Noort and the  
 19 hospital ship Comfort were SHIMADA's responsibility.<sup>4.</sup>  
 20 In regard to the attack on the navy hospital ship  
 21 Comfort on October 24, 1944 and again on April 30,  
 22 1945, they say SHIMADA is chargeable and responsible  
 23

24 1. Pros. Argument para. TT-60, T. 41703.

25 2. Ex. 2057 - T. 15042.

3. Pros. Argument para. TT-61, T. 41704.

4. Pros. Argument para. TT-64, T. 41706.

1 even though he had ceased to be Navy Minister and  
2 Chief of Naval General Staff because they were a  
3 continuation of the policy and practices traceable  
4 to his period of responsibility.<sup>1.</sup> We charge this  
5 is not worthy of answering for they have shown no  
6 policy or practice, or to say the least, no policy  
7 or practices instituted or carried out by SHIMADA.

8 70-b. In regard to the Netherlands hospital  
9 ship Op Ten Noort which was captured by the Japanese,  
10 the prosecution alleges that protests were directed  
11 to the Prime Minister, the Foreign Minister and Navy  
12 Minister SHIMADA, and were not honored.<sup>2.</sup> The pro-  
13 tests so mentioned by the prosecution included those  
14 from the captain of the ship addressed to the Japanese  
15 Navy Minister at Tokyo.<sup>3.</sup> Being simply letters which  
16 would have to be mailed or delivered from the place  
17 of internment in war times there is absolutely no  
18 evidence that such was done and hence that the Navy  
19 Minister received the same.  
20

21 71-a. This is the extent of the prosecution's  
22 argument against SHIMADA for mistreatment of prisoners  
23 of war and civilians. Other than their charge that

24 1. Pros. Argument para. TT-64, T. 41707.

25 2. Ibid - T. 41706.

3. Ex. 2067 - T. 15070.



1 everything the Japanese Navy personnel did in the  
2 way of misconduct was directly chargeable to SHIMADA,<sup>1.</sup>  
3 they have produced no evidence which links SHIMADA  
4 with responsibility concerning any of the acts. Sur-  
5 prise, speculation and indeed far-fetched reasoning  
6 does not discharge their onus. No evidence has been  
7 given that SHIMADA issued orders commanding or was  
8 apprised of any of the alleged atrocities or mistreat-  
9 ment of prisoners of war. The Vice-Minister of Navy  
10 SAWAHOTO told the Tribunal that he did not receive  
11 any protests concerning prisoners of war but that they  
12 would probably have been routed to appropriate sub-  
13 sections;<sup>2.</sup> and he further said that if he did not  
14 receive them Navy Minister SHIWADA himself, in his  
15 high position, would not have received them.<sup>3.</sup> The  
16 prosecution in their efforts to convict are perhaps  
17 guilty of a very common oversight and that is the  
18 failure to realize just how remote and far removed  
19 from the scene of action was the Navy Minister in  
20 Japan. The vast majority of the work of the ministry  
21 was taken care of by the many bureaus and section  
22 chiefs of that ministry and it is humanly impossible  
23 to imagine that these isolated matters were routed to  
24

25 1. Pros. Argument para. TT-63 -T. 41705.

2. T. 34611.

3. T. 34612.

1 SHIMADA for personal study and consideration but it  
2 depicts the setting from a practical, common sense  
3 point of view.

4 72-a. In regard to prisoners of war the  
5 evidence fully supports the contention that prisoners  
6 of war taken by the navy had to be turned over to  
7 the army and that their care while in the custody  
8 of the navy was designated only temporary.<sup>1.</sup> Rather  
9 than the prosecution proving that the Navy Ministry  
10 issued orders commanding the commission of atrocities  
11 or the mistreatment of prisoners of war the defense  
12 offered in evidence a Navy Ministry notification  
13 which was dated 1941 and which provided treatment for  
14 prisoners of war not dissimilar to the provisions re-  
15 quired under international law.<sup>2.</sup> At the time of  
16 the offering of this exhibit the Tribunal requested  
17 that all of it not be read. However, we deem it of  
18 great importance.<sup>3.</sup> Such orders as were issued by  
19 the ministry disprove by positive evidence what the  
20 prosecution would have you accept through inference.<sup>4.</sup>  
21  
22

- 23 1. Ex. 3056 - T. 27278.  
24 2. Ex. 3055 - T. 27276.  
25 3. Ibid.  
4. T. 27278.



## Submarine Atrocities.

1  
2 72-b. At the risk of repetition, we again  
3 remind the Tribunal that the evidence is concise and  
4 clear in establishing that the Navy Minister had no  
5 control over operational tactics or orders. He was  
6 never consulted with regard to submarine operations in  
7 the Pacific War.<sup>1</sup> But as we have proceeded to show  
8 that such matters were under the jurisdiction of the  
9 Naval General Staff we come to a consideration of the  
10 six months' period when SHIMADA also held that post.  
11 To fully probe the matter we called to the witness box  
12 a highly competent witness, former Admiral YAMAMOTO,  
13 Chikao, who gave valuable testimony concerning Japanese  
14 submarine warfare operations.<sup>2</sup> The competence of this  
15 witness was established by the fact that he was Chief  
16 of the First Section of the Naval Department of the  
17 Imperial Supreme Command from January 1943 until Decem-  
18 ber 1944 and in this capacity had charge of the draft-  
19 ing of over-all submarine operational orders.<sup>3</sup>

21 73-a. The witness testified that in the  
22 latter part of March 1943 a period known as the Third  
23 Phase of the naval campaign was commenced and that in  
24 regard to the submarine warfare this phase was broken

- 25  
1. Tr. 27,363.  
2. Ex. 3052, Tr. 27,253.  
3. Tr. 27,252.

1 down into three minor periods.<sup>1</sup> The first period of  
2 submarine activities extended from the latter part of  
3 March 1943 to October of the same year.<sup>2</sup> The second  
4 period began in October 1943 and extended until August  
5 1944. During the first two periods orders were issued  
6 by the Chief of Naval General Staff to Commander-in-  
7 Chief YAMAMOTO and to the later Commander-in-Chief of  
8 the Combined Fleet Admiral KOC.<sup>3</sup> The Navy Minister  
9 was not concerned.

10 73-b. Admiral SHIMADA became Chief of Naval  
11 General Staff in February and remained as such until  
12 August 1944 but during that period no submarine cam-  
13 paign orders were issued as the evidence so recites.  
14 The third period which began in August of 1944 was  
15 not altered in so far as the principle of operation  
16 of the previous directive was concerned.<sup>4</sup> The prosecu-  
17 tion has introduced in evidence an alleged submarine  
18 operational order dated March 20, 1943.<sup>5</sup> Tucked away  
19 in this order consisting of eight translated English  
20 pages together with a map, is a paragraph providing  
21 for the destruction of crews of enemy ships after the  
22 sinking thereof. The prosecution has sought to make  
23

24 1. Tr. 27,253.

25 2. Ibid.

3. Tr. 27,255.

4. Tr. 27,256.

5. Ex. 2105, Tr. 15,184.



1 much of this alleged order in so far as the accused  
2 SHIMADA is concerned.<sup>1</sup>

3 74-a. Before discussing the contents of the  
4 alleged order it must be noted that it purportedly was  
5 issued in March of 1943 at which time Admiral SHIMADA  
6 was Navy Minister alone. It is not an order from the  
7 Naval General Staff but is signed by MITO, Hisachi,  
8 as commanding the First Submarine Squadron Force. The  
9 document was issued from aboard the flagship at Truk  
10 and is entitled "First Submarine Force Order." On its  
11 face it is limited to the First Submarine Force and  
12 does not include any other unit.

13 74-b. The First Submarine Force on March 20,  
14 1943, belonged to the Sixth Fleet which did not operate  
15 in the Indian Ocean area, being directed largely to  
16 the Samoa-Fiji area.<sup>2</sup> The Southwestern Area Fleet was  
17 the one operating in the Indian Ocean.<sup>3</sup> The Sixth  
18 Fleet had its base at Truk while the Southwestern Area  
19 Fleet had its base at Penang with its theater limited  
20 to the Indian Ocean.<sup>4</sup>

21 74-c. The defense called MITO, Hisachi, the  
22 supposed author of exhibit 2105, the submarine order,  
23

- 24 1. Pros. Argument para. TT-17, Tr. 41,668.  
25 2. Tr. 27,258, 27,259.  
3. Ibid.  
4. Tr. 27,260.

1 in an effort to render the Tribunal the greatest  
2 assistance possible in clarifying the question. The  
3 prosecution contends that MITO did not deny the authen-  
4 ticity of the order.<sup>1</sup> This is not an accurate statement  
5 for MITO said he could not concede that such an order  
6 would ever have been issued.<sup>2</sup> He said he had been  
7 interrogated several times before by the prosecution  
8 relative to this order and had discussed it thoroughly.  
9 "I told them that while it appeared to be in the same  
10 form as other orders issued I had no recollection of  
11 this particular one," he said.<sup>3</sup> Further MITO stated,  
12 "I denied knowledge of the execution order and also  
13 denied that there was any collaboration to my knowledge  
14 with German submarines or that we employed any tactics  
15 based upon German origin."<sup>4</sup>

16 THE PRESIDENT: Mr. Brannon, who follows you?

17 MR. BRANNON: Mr. McManus, for the accused  
18 ARAKI.

19 THE PRESIDENT: We will recess for fifteen  
20 minutes.

21 (Whereupon, at 1045, a recess was  
22 taken until 1100, after which the proceedings  
23 were resumed as follows:)

- 24  
25 1. Pros. Argument para. TT-17, Tr. 41,669.  
2. Tr. 34,637.  
3. Tr. 34,636.  
4. Tr. 34,637.



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MARSHAL OF THE COURT: The International  
Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. Brannon.

MR. BRANNON: 75-a. MITO further said that he  
had been told that the prosecution submitted that "the  
Navy Minister must be held responsible for the top  
secret naval order for submarine operation requiring the  
complete destruction of ships sunk by submarines.\* \* \*"1.

Said MITO: "This is absolutely contrary to fact. The  
Navy Ministry could not issue such an order since it is  
a matter entirely within the prerogative of the High  
Command and I cannot conceive by any stretch of the  
imagination how it can be said that any such order, if  
actually issued, came from the Navy Ministry."2.

Assuming that the order was actually issued MITO said  
that the "parent order or basic order would have come  
from the Commander in Chief of the Combined Fleet and  
probably would have been received from the Chief of  
Naval General Staff at the highest point."3. The  
prosecution of course left out the word "probably" when  
they attempted to set forth what MITO had said.4. But  
if such were the case the man in the General Staff at  
that time who was drafting the orders was one YAMAMOTO,

(1. Ibid.

2. T. 34638.

3. T. 34637.

4. Prosecution argument par. TT-17, T. 41668.)

Chikao, the witness who, as stated before, was in the General Staff and was in charge of drafting the submarine orders.

76-a. Said YAMAMOTO when questioned about the principle of annihilation of crew members of a sunken vessel and as to whether such had ever been adopted in the plan of operations drawn up in the Naval General Headquarters: "The Japanese Navy have never adopted such a principle; absolutely no, never." Reciting that it was contrary to the very teachings of the Japanese Navy itself he cited Naval General Staff Directive 15 of 30 November 1941 and Naval General Staff Directive No. 60 of 1 March 1942 as illustrating the policy of the Navy.<sup>1.</sup> The prosecution cross-examined MITO striving to show that an 8th Submarine Squadron operated in the Indian Ocean and was also under the Sixth Fleet.<sup>2.</sup> The witness definitely told the prosecution that there was no 8th Submarine Squadron under his command and he commanded the First Submarine Force which was supposed to have issued this order.<sup>3.</sup>

76-b. The witness TOMIOKA who was YAMAMOTO's predecessor in the drafting of submarine orders was asked if during the war an operational policy was either

- (1. T. 27257, 27258.  
2. T. 34641.  
3. Ibid.)



1 planned or indicated by General Headquarters to  
2 annihilate the crew members of ships sunk by submarines.  
3 He said: "Such a thing was never planned nor indicated  
4 by Imperial Headquarters Naval Command Instructions. If  
5 it were indicated it should be recorded in the file of  
6 Imperial Headquarters Naval Command Instructions. Not  
7 only is there no such order but this is very far from  
8 the spirit of the Japanese Navy."<sup>1.</sup> The prosecution  
9 itself admitted that it was the Southwestern Area Fleet  
10 with Headquarters at Penang that operated in the Indian  
11 Ocean.<sup>2.</sup>

12 77-a. The President of the Tribunal said: "Of  
13 course, a submarine could have done anything it liked  
14 without letting Imperial Headquarters know.\* \* \*"<sup>3.</sup>  
15 This statement was made at the time the prosecution  
16 asked the witness YAMAMOTO if local commanders could  
17 inaugurate submarine warfare involving the tactics of  
18 destroying surviving crews and passengers without  
19 Imperial Headquarters knowing of the fact. The question  
20 was disallowed by the Tribunal.

21 77-b. Submarine directives from the Naval  
22 General Staff were introduced in evidence. Among them  
23 were Orders 15, 60 and 61. Directive 15 issued to the

- 24 (1. T. 27294.  
25 2. T. 27266.  
3. T. 27265.)

1 Commander in Chief of the Combined Fleet on November  
2 30, 1941, and it provided for time to be given the crew  
3 and passengers of torpedoed ships to seek safety;<sup>1.</sup>  
4 Directives 60<sup>5.</sup> and 61, issued to the Commander in Chief  
5 of the Combined Fleet and to the Commander in Chief of  
6 the China Seas Fleet respectively. The former contained  
7 this provision: "In the operation by surface craft it  
8 shall be made a rule as far as possible that such attack  
9 be preceded by duly processed visit and search, and  
10 every possible endeavor shall be made to rescue human  
11 lives if circumstances warrant the sinking of the  
12 vessels." The latter directive provided: "In dealing  
13 with foreign shipping in general due process shall as  
14 a rule be taken in accordance with the provision of law.  
15 If a sinking is made without (being able) to go through  
16 a prescribed process because of some forced circum-  
17 stances, every possible means shall be taken to rescue  
18 human lives after sinking." Directive 61 could not  
19 recind Directive 15 because the latter was issued to the  
20 Commander in Chief of the Combined Fleet while the former  
21 was directed to the Commander in Chief of the China  
22 Fleet - each under independent and separate commands.<sup>1.</sup>  
23 The prosecution's only comment in face of this evidence  
24 (1. T. 27296, 26301, Ex. 3058-A.  
25 2. T. 27274, Ex. 3054-A.  
3. Cf. prosecution argument par. TT-17, T. 41617.)



1 was that the mere issuance of directives does not fully  
2 discharge responsibility. As to prosecution comment  
3 that Directive 209, dated March 25, 1943, does not  
4 contain instructions to save survivors, may it not with  
5 balancing logic be said that it does not contain orders  
6 to not save them?<sup>1.</sup> The violent disagreement between  
7 this positive evidence and the prosecution's assertions  
8 is not reconcilable.

9 78-a. Although the prosecution persistently  
10 referred to the German policy of destroying shipwrecked  
11 survivors,<sup>2.</sup> it is interesting to note that the Nuernberg  
12 Tribunal passing judgment on Admiral Doenitz stated:  
13 "The evidence does not establish with the certainty re-  
14 quired that Doenitz deliberately ordered the killing of  
15 shipwrecked survivors."<sup>3.</sup> The prosecution makes the  
16 unwarranted statement that two German submarines were  
17 given to Japan in return for atrocity submarine warfare  
18 as proposed by Hitler.<sup>4.</sup> Such statement is counteracted  
19 more than once by defense evidence. Admiral Wenneker,  
20 the German Naval Attache in Tokyo, stated regarding  
21 the gift of the submarines: "We wished to assist the  
22 Japanese toward the construction of modern and efficient  
23 Japanese submarines. To this end we presented them with  
24

25 (1. T. 41617; Ex. 3053-A, T. 27270.

2. T. 27261, 27262.

3. Nuernberg decision p. 140.

4. Prosecution argument par. TT-16, T. 41667, 41668.)

1 two new submarines." <sup>1.</sup> Admiral NOMURA who was assigned  
 2 in Germany as a member of a Mixed Technical Committee  
 3 stated that the gift of the submarines was utterly un-  
 4 conditional. He said: "In return for this offer no  
 5 request was made for more intensified submarine warfare  
 6 on the part of Japan." <sup>2.</sup> Hitler's words as quoted by <sup>3.</sup>  
 7 Admiral NOMURA were that he hoped the Japanese Navy  
 8 would be benefited in her submarine construction and he  
 9 wished to donate two of the new German submarines to  
 10 Japan. <sup>4.</sup>

11 79-a. Admiral NOMURA stated that the naval  
 12 authorities in Tokyo simply instructed him by telegram  
 13 that as the primary objective in bringing the German  
 14 submarines to Japan lay in the contributory effect of  
 15 these submarines on Japanese building technique three  
 16 German technicians should be brought to Japan along with  
 17 the submarines. <sup>5.</sup> The Japanese did not find the German  
 18 submarines suitable in construction for their purposes  
 19 and decided they could not be duplicated with practical  
 20 benefit. <sup>6.</sup> And this statement is confirmed by Admiral  
 21 Wenneker when he said that he was later informed that  
 22 the Japanese felt they could not duplicate the submarine  
 23

- 24 (1. T. 26556.  
 2. T. 26573, 26574.  
 25 3. T. 26574.  
 4.  
 5. T. 26574  
 6. T. 26575.)



1.  
and did not intend to do so.

1           79-b. The long prosecution dissertation con-  
2 cerning Ambassador OSHIMA and Foreign Minister Ribben-  
3 trop of Germany in connection with the submarine trans-  
4 action avails nothing for even their statement that  
5 OSHIMA said that Japan intended to accentuate submarine  
6 warfare and would like to have the two German submarines  
7 is absolutely no offense of any kind. The war at this  
8 time was going on.<sup>2.</sup> At no time did OSHIMA telegraph  
9 any messages to the War or Navy Ministers in Japan.<sup>3.</sup>

10           79-c. The prosecution comments on SHIMADA's  
11 statement that he had no knowledge of alleged submarine  
12 atrocities and allege that many protests by the Allied  
13 Governments were ignored by the Japanese Navy and Foreign  
14 Offices.<sup>4.</sup> Of these protests the Tribunal should take  
15 note of the prosecution's failure to relate that all  
16 except one are dated after SHIMADA had left both the  
17 office of Navy Minister and Chief of Naval General  
18 Staff. In complete fairness, they should have notified  
19 the Tribunal of this fact. And there is no evidence  
20 that he received any protests contrary to his solid  
21 statement to that effect.<sup>5.</sup> All except one of the total

22  
23 (1. T. 26557.

24 2. Prosecution argument par. TT-16, T. 41668.

25 3. T. 26603.

4. Prosecution argument par. TT-12, T. 41663.

5. T. 34671.)

of nine Japanese submarines operating in the Indian

Ocean from 1943 until August, 1944, were reported as

missing.<sup>1.</sup> The Commanding Officer of the remaining submarine was killed in action in July, 1944. Under these circumstances with the submarines and their crews failing to return to their base a complete investigation of their activities was impossible.<sup>2.</sup>

80-a. The prosecution brought into the courtroom a Japanese Nisei named NAKAHARA who had served aboard the Japanese submarine I-8 as radio monitor.<sup>3.</sup> His testimony depicts the strained attempt of the prosecution to involve SHIMADA where the facts dictate it should not be done. The testimony of NAKAHARA is hardly a worthy means of attempting to establish responsibility on the part of SHIMADA. Such statements in his affidavit that he was told, after his return to Tokyo, by the Chief of the Third Section of the Naval General Staff not to relate his observations are indicative of a desire to cast an inference that the Naval High Command was attempting to cover over the misdeeds of the submarine crew.<sup>4.</sup> On cross-examination he admitted that such instructions were not given to him in his opinion, to prevent him from revealing the commission

(1. Ex. 3064, T. 27351.

2. T. 27351.

3. T. 38136.

4. T. 38144.)



1 of atrocities but could have been routine security  
 2 procedures.<sup>1.</sup> Again his statement that he was never  
 3 questioned at the General Staff or by the Foreign Office  
 4 in regard to the happenings aboard the submarine was  
 5 designed to cast inference that the authorities were  
 6 negligent in not investigating the matter.<sup>2.</sup>

7 81-a. But again on cross-examination he stated  
 8 that not only did he not attempt to report to anybody in  
 9 the Naval General Staff concerning the matter<sup>3.</sup> but as  
 10 far as he knew Commander ARIIZUMI did not report the  
 11 killings,<sup>4.</sup> and as far as he knew no one reported the  
 12 acts to any one in Tokyo.<sup>5.</sup> In regard to the order not  
 13 to relate overseas experience he explained that they  
 14 went to Truk Atoll once and when he returned such state-  
 15 ment was made.<sup>6.</sup> Therefore in point of sequence there  
 16 is no connection between his statement and the commission  
 17 of submarine atrocities. He testified that the commander  
 18 of the submarine ARIIZUMI told him not to tell about the  
 19 killings and when asked on cross-examination why he had  
 20 been told this if the actions taken were in compliance  
 21 with orders his waivering answer was that "it may have  
 22 been that it might be troublesome."<sup>7.</sup> When asked to whom

24 (1. T. 38149.  
 25 2. T. 38144.  
 3. T. 38149.  
 4. Ibid.

5. Ibid.  
 6. Ibid.  
 7. T. 38148.)

1 it may have been troublesome he answered that he didn't  
2 know. He was asked if an officer obeyed orders why he  
3 should be afraid to admit that he carried them out.  
4 His evasive and confused answer was that he was a  
5 civilian and not an officer and didn't know about that.  
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(1. T. 38148.)



82-a. As to the attempt to connect the acts  
 1 of ARIIZUMI, whom they admit in their argument was  
 2 known as the "gangster"<sup>2</sup> and the "butcher",<sup>3</sup> with the  
 3 Naval General Staff we have only to point to the  
 4 method adopted as a means of proof. NAKAHARA's  
 5 testimony on direct examination that the Commander  
 6 told him the killings took place under orders from  
 7 the Naval General Staff<sup>4</sup> was fully clarified on  
 8 cross-examination when it was revealed that it was a  
 9 passing conversation at meal time with no other  
 10 substantiation of any kind.<sup>5</sup> The witness admitted  
 11 that he, being a Nisei, was not trusted with secret  
 12 information or secret assignments,<sup>6</sup> and that he had  
 13 never seen any official orders issued from the Naval  
 14 General Staff or the Ministry commanding the killing  
 15 of survivors of enemy vessels.<sup>7</sup>

82-b. He further told the Tribunal that the  
 17 orders of ARIIZUMI, the Commander of the submarine,  
 18 were obeyed "because we knew he was ruthless." He  
 19 testified that ARIIZUMI's nick name among the crew  
 20 was "gyangu" meaning Gangster.<sup>8</sup> Furthermore a reading of

- 22 2. Pros. Argument para. TT-13, T. 41,664.
- 23 3. Pros. Argument para. TT-51, T. 41,698.
- 24 4. T. 38,140.
- 25 5. T. 38,148.
6. T. 38,147.
7. Ibid.
8. T. 38,140.

the other prosecution evidence relative to the alleged  
1 submarine atrocities reveals that the robbery of watches,  
2 rings and other items denote plunder and robbery on  
3 the part of the captain and crew.<sup>1</sup> It is not beyond  
4 possibility that these actions as carried out were  
5 the individual misdeeds of the commanders and the  
6 crews seeking to benefit by the robbing of the victims  
7 of the vessels they sunk. Furthermore NAKAHARA's  
8 statement that the submarine would stay surfaced  
9 perhaps an hour or two hours<sup>2</sup> is entirely contrary  
10 to the expert statement of Admiral MITO who told the  
11 Tribunal such was unthinkable during these days of  
12 modern warfare with radar, etc.<sup>3</sup>

14 83-a. Admiral SHIMADA told the Tribunal  
15 that not even by stretching his imagination could  
16 he believe that such an order was issued commanding  
17 the killing of submarine survivors.<sup>4</sup> It should also  
18 be called to the Tribunal's attention that NAKAHARA  
19 reports that he returned to Japan in September of 1944  
20 at which time SHIMADA had resigned both as Navy  
21 Minister and Chief of Naval General Staff.<sup>5</sup> Any  
22 inference resulting from his not being questioned

- 23 1. T. 15,115.  
24 2. T. 38,150.  
25 3. T. 34,637.  
4. T. 34,671.  
5. T. 38,144.



cannot therefore reflect on SHIMADA. The prosecution  
has limited its charges of submarine atrocities to  
the destroying of survivors of torpedoed vessels and  
we do not have need to consider the subject further  
than has been here presented.

Miscellaneous

83-b. The prosecution argument relative to  
SHIMADA's military decorations is hardly worthy of a  
reply. The defense called to the witness box naval  
officer NIIJIMI, who was assigned to matters of naval  
decorations at that time, for a full explanation of  
SHIMADA's Anti-Comintern decoration.<sup>1</sup> So adequate  
and complete was his testimony that the prosecution  
waived its cross-examination. But this did not  
prevent them from commenting on this particular award  
in their final argument.<sup>2</sup> It was explained that  
SHIMADA's only connection with the Anti-Comintern  
Pact was his high rank in the Navy and that the  
decoration received, far from being dependent upon  
merit, was a mere formality.<sup>3</sup> SHIMADA himself  
explained the awards which he had received and there  
was no challenge from the prosecution.<sup>4</sup>

6. T. 34,772.

1. T. 34,630.

2. Pros. Argument para. TT-34, T. 41,683.

3. T. 34,632.

4. T. 34,675.

84-a. Although abandoning their original  
 1 contention that SHIMADA's membership on the China  
 2 Affairs Board was of importance,<sup>5</sup> it is interesting  
 3 to note the undisputed evidence shows that whomsoever  
 4 became Navy Minister likewise was automatically appointed  
 5 as a Vice-Chairman of this board with no duties or  
 6 functions attached.<sup>6</sup>

84-b. Another faux pas on the part of the  
 8 prosecution in their grasping for evidential straws  
 9 was their baseless charge that SHIMADA was recommended  
 10 by Premier TOJO as Welfare Minister in the Cabinet  
 11 reorganization of July 1944 in order to have a member  
 12 of the Imperial Rule Political Society in the cabinet.<sup>7</sup>  
 13 TOJO utterly crushed their attempt to connect SHIMADA  
 14 in political matters when he testified that the SHIMADA  
 15 he had in mind was Toshio SHIMADA entirely a different  
 16 person than the accused.<sup>1</sup> SHIMADA himself could not  
 17 understand this attempt to characterize him as a  
 18 politician by an allegation so easily susceptible of  
 19 investigation and discovery of error before it was  
 20 made.<sup>2</sup>

85-a. The prosecution charges that SHIMADA

- 24 5. T. 16,901.
- 25 6. T. 34,675.
- 7. T. 16,909.
- 1. T. 36,526.
- 2. T. 34,668, 34,669.



1 showed his belligerent attitude toward the United  
2 States and Great Britain because he said according  
3 to a newspaper article "the confrontation between the  
4 Chiang supporting powers and our nation has come to  
5 assume serious proportions suggestive of an aggravated  
6 tension in the international situation."<sup>3</sup> We hardly  
7 know how to answer this except to say that it was  
8 perhaps an ultra-honest statement of the time clothed  
9 in words of admirable mildness.<sup>4</sup> The prosecution  
10 also disliked the emphatic manner in which the accused  
11 testified and submitted that it indicated strong  
12 feeling against the United States and Great Britain.<sup>5</sup>  
13 That SHIMADA honestly and sincerely believed in that  
14 which he testified and did so in a forthright, strong  
15 fashion is to us an indication of the sincerity of  
16 his thought and hardly subject to the criticism so  
17 directed. SHIMADA is no more deserving of criticism  
18 for his "emphatic manner of testifying" than is the  
19 American Admiral who appeared as a prosecution witness  
20 before this Tribunal.

21  
22 86-a. As to the relationship between  
23 Admiral SHIMADA and those other Japanese naval officers  
24 who were associated with him because of rank and age,

25 3. Pros. Argument TT-24, T. 41,675.

4. T. 38,086.

5. Pros. Argument TT-24, T. 41,675.

we ask the Tribunal to view the obvious as the answer.

1 It is the weakest of all possible arguments that the  
2 prosecution could advance to complain of this factor.  
3 For in every navy in every country of the world there  
4 is an acquaintanceship and a sharing of mutual duties  
5 between those men who from their early naval academy  
6 days have advanced through the years to high rank  
7 and positions of command. If it were otherwise it  
8 would indeed be strange.<sup>1</sup>  
9

10 86-b. According to the Anglo-American  
11 conception of conspiracy lack of acquaintanceship with  
12 fellow conspirators is of course no defense. But in  
13 the practical common sense viewpoint the fact of  
14 SHIMADA's scant acquaintance or no acquaintance at  
15 all with the other accused is indicative of his non-  
16 political connection and essay the fact that he was  
17 simply a naval officer.<sup>2</sup>  
18

19 Conclusion

20 86-c. There is much that should be said no  
21 doubt. But within our limited ability we have tried  
22 to give you such facts, such evidence and such thoughts  
23 as will draw apart the curtains from the stage of  
24 misunderstanding as to the charges of criminality aimed

- 25 1. Pros. Argument para. TT-32, T. 41,681.  
2. T. 34,676.



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- 25 1. Pros. Argument para. TT-32, T. 41,681.  
2. T. 34,676.

at SHIMADA. When the Tribunal comes to a deliberation  
1 on the maze of evidence before it, predicated upon  
2 varigated and intricate factual matters depicting  
3 a period of many years and which as a matter of  
4 evidence has well nigh exhausted a two year span, it  
5 will have before it a problem ominously challenging  
6 in all of its many aspects.

7 87-a. Because counsel sincerely and deeply  
8 recognizes this fact our constant purpose and intent  
9 has been to avoid a twisting and turning of evidential  
10 matters into an interpretation favorable to the  
11 accused but at the same time to strike at that evidence  
12 and those allegations which would lead to a false  
13 conclusion. Clearly then, for convenience arising  
14 from logical sequence, the case against SHIMADA is  
15 capable of division into two periods divided by his  
16 appointment as Navy Minister.

18 87-b. The prosecution portrayed SHIMADA's  
19 career quite well when they said he joined the Navy  
20 in 1901, when 18 years of age and remained in that  
21 service as an active naval officer until January 1945;<sup>1</sup>  
22 and that he held no political office until he became  
23 Navy Minister.<sup>2</sup> Leaving aside for the moment the period  
24 commencing October 18, 1941, we have squarely presented  
25 a problem of vital interest to military men the world over.

1. T. 16,900. 2. T. 16,901.



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87-c. It touches off the query of whether these men can longer pursue their profession of arms without the ever-present fear of ultimate punishment at the hands of a victorious enemy. The honorable profession of arms<sup>1</sup> is subject to no criticism in and of itself. It is not a crime to devote your life to the military whose function is the protection of the land and whose duties flow from the dictate of its current government. If the military efforts of a professional soldier enforcing and carrying out the directive of the policy makers of his nation in compliance with the acknowledged laws of war were a crime, the words of praise and decorations of honor bestowed upon those protectors of the many nations of the world would resolve themselves to sheer hypocrisy and the commendations heaped upon their shoulders would be but proof of guilt.

88-a. No one has ever argued this premise<sup>2</sup>-- unless it can be the begging innuendo arising from the prosecution's interpretation of conspiracy or the waging of war that is subject to a later adjudication of aggressive. But for aught that we might here say it does inject into the procedure of a

1. Nuernberg decision, p. 107.

2. See Nuernberg decision, p. 107: "The Tribunal does not declare the General Staff and High Command to be a criminal organization."

1 military man's life the vexing problem of deciding  
2 when his conduct is criminal and when it is commend-  
3 able. The protective forces of the nations of the  
4 world, the military and the naval, will listen with  
5 rapt attention to the utterances of this Tribunal in  
6 its finding on this most vital of issues, for it  
7 becomes apparent that a line of demarcation must be  
8 drawn somewhere.

9 88-b. The other part of SHIMADA's life, the  
10 34 months from October 18, 1941 when he became Min-  
11 ister of Navy until he resigned as Chief of Naval  
12 General Staff on August 2, 1944, presents another  
13 problem. If, with full knowledge of the facts, he  
14 had solicited the post, if he had maneuvered and  
15 campaigned for the job or even if he had behind him  
16 a background of political ties and participation in  
17 affairs of state an entirely different factual picture  
18 would be before the Tribunal for study. But how  
19 utterly and completely different it was. From the  
20 evidence before us it is undisputed that SHIMADA was  
21 drawn into the climaxing moments of the confusing and  
22 ebullient Japanese-American differences solely because  
23 of his then rank and status in the Navy. It was a  
24 trick of fate made possible through the odd tradition  
25 of the navy and the ordinance which demanded a high-



1 ranking admiral on the active list for the post of  
2 Navy Minister. Of course he did not have to accept  
3 and the evidence is indeed positive that he did  
4 refuse only to yield to the insistent urgings of those  
5 fellow naval officers whose prestige and position  
6 he could not well ignore.

7 89-a. In carrying out the functions of his  
8 high office there is nothing to show that SHIMADA's  
9 actions were at any time accompanied by criminal  
10 intent, impelled by criminal motive or the result of  
11 criminal negligence based on inadequate factual  
12 provocation. And this is all important, for in line  
13 with the theme here advanced the Chief Prosecutor  
14 said in speaking of an accused, "He is being charged  
15 with crime. His state of mind, it seems to me, is  
16 of considerable importance."<sup>1</sup> And it was the Presi-  
17 dent, who in replying said: "His honest and reasonable,  
18 though mistaken, belief in the existence of a state of  
19 facts is a defense."<sup>2</sup>

20 90-a. Thus SHIMADA's thoughts, his belief  
21 and conviction that his country was imperiled and its  
22 security threatened, giving rise to the right to  
23 fight in self-defense have been the subject of much  
24 of the evidence presented. As to what criterion can  
25

1. Tr. 36571.

2. Tr. 36571.

1 be applied to determine when a condition of threatened  
2 national security arises we can perhaps only specu-  
3 late or turn to the thinking of eminent minds.<sup>1.</sup>

4 90-b. SHIMADA's high rank and position was  
5 not bought at the price of membership in a "Nazi"  
6 party of Japan. As a member of the Navy he belonged  
7 to a powerful organization which the evidence has  
8 shown never caused the fall of a cabinet or prevented  
9 its formation and seldom took the initiative in  
10 state decisions.

11 90-c. The culmination of events that led to  
12 war on December 7, 1941 reminds us of the rule of law  
13 regarding "proximate cause." "The causes that are  
14 merely incidental or instruments of a superior con-  
15 trolling agency are not the proximate causes and the  
16 responsible ones, though they be nearer in time to

17 1. Cf. Public Papers and Addresses of President  
18 Roosevelt, 1940 Volume, introduction thereof:  
19 "There was a time when we could afford to  
20 say that we would not fight unless attacked,  
21 and then wait until the physical attack came  
22 upon us before starting to shoot. Modern  
23 techniques of warfare have changed all that.\*\*\*  
24 An attack today begins as soon as any base has  
25 been occupied from which our security is  
threatened. That base may be thousands of  
miles away from our own shores. The American  
government must, of necessity, decide at which  
point any threat of attack against this hemi-  
sphere has begun; and to make their stand when  
that point has been reached."



1 the result. It is only when the causes are inde-  
2 pendent of each other that the nearest is, of course,  
3 to be charged with the disaster."<sup>1</sup>.

4 91-a. It is with a sincere and honest  
5 appraisal of the evidence presented in this case  
6 that we ask for the acquittal of the accused Admiral  
7 SHIMADA, Shigetaro on all relevant counts in the  
8 Indictment.

9 91-b. And this last personal word if I may:  
10 One of the greater adjective contributions to the  
11 future law of nations is destined to be the appear-  
12 ance of citizens from the victorious powers repre-  
13 senting with sincerity, integrity and without fear  
14 those accused members of the enemy who have been  
15 called to the bar of justice for alleged transgres-  
16 sions. In so acting we have striven to usher in a  
17 code of conduct befitting the benevolent powers of  
18 the world and which concept is so keenly expressed  
19 in the words of a great Englishman: "So let them  
20 act up to the level of their power and responsibility--  
21 not for themselves but for all men in all lands--and  
22 then a brighter day may dawn on human history."<sup>2</sup>.

23 1. Blythe v. R.R. Co., 25 702 (Colo.)  
24 Black Law Dictionary, 1458.

25 2. Winston Churchill, August 16, 1945, in speaking  
of the United States.

THE PRESIDENT: Mr. McManus.

1 MR. McMANUS: Mr. President and Members of  
2 the Tribunal, at this time I should like to present  
3 the summation on behalf of Baron General ARAKI, Sadao.

4 I might point out to the Members of the  
5 Tribunal that portions of this summation will not be  
6 read. I have them marked in my copy, and when I come  
7 to such paragraphs or portions of the summation, I  
8 shall call them to the attention of the Tribunal.

9 Chapter 1. The Suspicion Against ARAKI

10 A. The Development of That Suspicion

11  
12 The prosecution's suspicion against ARAKI can  
13 be observed by dividing it into four phases.

14 (1) When ARAKI was detained at the Sugamo  
15 Prison, on 19 November 1945, the outline of ARAKI's  
16 career was made public as the result of the informa-  
17 tion gathered by the Intelligence Section of GHQ, SCAP  
18 and published in the newspapers throughout Japan the  
19 following day. It was as follows:

20 "He was the Minister of Education from 1938  
21 to 1939, and in line with ultra-Nationalism, completely  
22 reorganized the system of education. As an extreme  
23 militarist and as an ardent nationalist, he had influence  
24 in the military circle and was a strong force behind  
25 General TOJO."



Reading this, ARAKI himself, to say the least,  
1 if not the entire population of Japan, was somewhat  
2 astounded. It was an overt fact to the whole nation  
3 that ARAKI was the man who extinguished the raging  
4 flames of the Manchurian Incident and because of this  
5 was attacked by the Fascist group of Japan. (He was on  
6 the blacklist of the Shimpeitai.<sup>1</sup>)

7 It was also known that, while he had nothing  
8 whatsoever to do with the "February 26 Incident" of  
9 February, 1936, he was compelled to retire from active  
10 service together with five other generals, on the  
11 ground that as an elderman of the army he should take  
12 moral responsibility for its disorder; and that the  
13 moment he was put on the reserve list the regulation  
14 providing that the War Minister must be in active ser-  
15 vice<sup>2</sup> was revived and ARAKI was completely shut out by  
16 the army. Consequently the one who had been expelled  
17 from army circles was alleged to be the strong force  
18 behind TOJO. The question of this nature which cer-  
19 tainly must have been thoroughly clarified during the  
20 course of this two-year trial before this Tribunal was  
21 primarily the suspicion placed upon him.

22  
23 THE PRESIDENT: Mr. McManus, you are reading  
24 from rejected documents.

- 25  
1. Tr. 28,477, def. doc. 1959 (rejected)  
2. Tr. 506, ex. 93

1 MR. McMANUS: If the Tribunal please, I ex-  
2 plained to Mr. Brown that there are several quotations  
3 from rejected documents here and that when I come to  
4 some I shall omit them. However, concerning this  
5 particular document, I am sure that the Tribunal, when  
6 it comes to page 11 of the summation -- that this fact  
7 I mention, the rejected document, will be clarified  
8 and will become known to the Tribunal, that there is  
9 an exhibit, exhibit 165, transcript page 1636, which  
10 I omitted to place here and which I placed on page 11  
11 of the summation.

12 THE PRESIDENT: Mr. Brown.

13 MR. BROWN: Your Honor, on behalf of the  
14 prosecution, I drew the attention of my learned friend,  
15 Mr. McManus, yesterday to the fact that we should ob-  
16 ject to citation of rejected documents, and he informed  
17 me that he proposed leaving that part out. That is  
18 why no objection was taken before the reading of this  
19 summation started.

20 THE PRESIDENT: Well, I have said quite often  
21 during the summations, and I say again, we will utter-  
22 ly disregard any statement of fact not supported by  
23 the evidence. We trust you to omit statements of fact  
24 not supported by evidence, Mr. McManus.  
25

MR. McMANUS: Yes, sir.



(2) The second is the series of charges  
 1 against ARAKI in the indictment. The prosecution's  
 2 accusation against ARAKI is comprised of 41 charges:  
 3 i.e., counts 1 to 17, 27 to 32, 34 and 44 together  
 4 with all the other accused; and counts 18, 19, 23, 25,  
 5 26, 33, 35, 45, 46, 47, and 51 to 55 together with  
 6 some of the other accused.

Concerning counts 18, 19 and 23 and counts  
 8 29 to 34, as we have already pointed out to the Court  
 9 in our motions to dismiss at the end of the prosecu-  
 10 tion's direct case,<sup>1</sup> and which has further been corrobo-  
 11 rated during the presentation of the defense case,<sup>2</sup>  
 12 ARAKI at the outbreak of all the incidents contained  
 13 in these counts held no responsible position.

This fact will further be corroborated by the  
 15 presentation of ARAKI's curriculum vitae by Prosecutor  
 16 Horwitz.<sup>3</sup> Concerning counts 26, 36 and 51, counts 28,  
 17 45, 46 and 47, and counts 44, 53, 54. and 55, while  
 18 it is true that ARAKI was a cabinet councillor or the  
 19 Education Minister, by that time the government had  
 20 adopted the "Five Minister Conference"<sup>4</sup> and it is ob-  
 21 vious ARAKI could not have been responsible in view of  
 22 the fact that the prosecution failed to prove why they  
 23

24 1. Tr. 16,289  
 25 2. Tr. 28,121, ex. 3160  
 3. Tr. 688  
 4. Tr. 28,486, ex. 3169; tr. 28,508, ex. 3170

held ARAKI responsible, who was only cabinet councillor  
1 or Education Minister, while such men as Navy Minister  
2 VONAI, Foreign Minister ARITA, Finance Minister ISHIWATA,  
3 who were actual members of the Five Minister Conference,  
4 were not held responsible.

5           "with respect to this point, the prosecution  
6 contended in their Summation I-4, "It is no excuse or  
7 defense for these accused that other conspirators have  
8 not been indicted." However, our contention is that  
9 where principal figures whose responsibility in an  
10 action should be most important are not indicted, it  
11 shows that the criminal nature of the action is non-  
12 existent, or if any at all, is very slight -- we contend  
13 that there is no criminal nature. A practice of indict-  
14 ing unimportant figures, leaving principal figures  
15 unindicted certainly would be alien to any kind of  
16 justice.

17  
18           Concerning count 27, the prosecution seems to  
19 have based their attempted proof of this allegation  
20 on the speech ARAKI made in the film "Critical Period  
21 for Japan" and of an interrogation<sup>1</sup> of ARAKI. Concern-  
22 ing the aforementioned speech, this Tribunal has heard  
23 the gist of it and it is our contention that it deserves  
24 no comment. With regard to the interrogation afore-  
25  
1. Tr. 2240, ex. 188 E



mentioned, it is respectfully called to the Tribunal's  
1 attention all the testimony relating to the misinter-  
2 pretations, poor translating and lack of adequate inter-  
3 preters during these interrogations conducted at Sugamo  
4 Prison at the early stages of this trial,<sup>1</sup> and we  
5 particularly call to the attention of this Tribunal the  
6 instance of the misinterpretation wherein it was  
7 alleged that the War Minister could order the Chief of  
8 Staff to conduct a campaign against the four eastern  
9 provinces of Manchuria.<sup>2</sup>

Continuing with this second suspicion against  
11 ARAKI, the prosecution in presentation of their curricu-  
12 lum vitae of ARAKI<sup>3</sup> listed him from March 28, 1939, to  
13 August 30, 1939, as Chairman of the National General  
14 Mobilization Committee. However, Mr. Brown stated  
15 during the course of this trial that this was a mistake<sup>4</sup>  
16 and that it should have been Chairman of the National  
17 General Spiritual Mobilization Committee, against whom  
18 there were no charges.  
19  
20  
21  
22

23 1. Tr. 28,222, ex. 3161; tr. 28,415

24 2. Tr. 2240, ex. 188 E

25 3. Tr. 688

4. Tr. 28536.

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3 preters during these interrogations conducted at Sugamo  
4 Prison at the early stages of this trial,<sup>1</sup> and we  
5 particularly call to the attention of this Tribunal the  
6 instance of the misinterpretation wherein it was  
7 alleged that the War Minister could order the Chief of  
8 Staff to conduct a campaign against the four eastern  
9 provinces of Manchuria.<sup>2</sup>

Continuing with this second suspicion against  
11 ARAKI, the prosecution in presentation of their curricu-  
12 lum vitae of ARAKI<sup>3</sup> listed him from March 28, 1939, to  
13 August 30, 1939, as Chairman of the National General  
14 Mobilization Committee. However, Mr. Brown stated  
15 during the course of this trial that this was a mistake<sup>4</sup>  
16 and that it should have been Chairman of the National  
17 General Spiritual Mobilization Committee, against whom  
18 there were no charges.  
19  
20  
21  
22

23 1. Tr. 28,222, ex. 3161; tr. 28,415

24 2. Tr. 2240, ex. 188 E

25 3. Tr. 688

4. Tr. 28536.



This fact is pointed out to show to the  
1 Court that this mistake, together with other suspi-  
2 cions mentioned in this first phase of this summation,  
3 might well have been the reasons why ARAKI was in-  
4 dicted in the first place, mistakenly or otherwise.

5 (3) The third phase of the suspicion  
6 against ARAKI which might have led to his indictment  
7 was a further misunderstanding by the prosecution  
8 which is clearly manifested in the prosecution's  
9 reply to our motions to dismiss at the conclusion of  
10 the prosecution's direct case. It again deals with  
11 the General National Mobilization Committee. On  
12 January 30, 1947, Mr. Comyns-Carr in reply to our  
13 motions states:  
14

15 "It was whilst such a policy was being  
16 pursued that ARAKI was appointed President of the  
17 General National Mobilization Committee on 28 March  
18 1939. It is clearly inconceivable that such a post  
19 should have been confided at such a time to anyone who  
20 was not heart and soul in sympathy with, and an active  
21 supporter of the criminal conspiracy for world con-  
22 quest on which the Japanese Government was engaged.  
23

24 "It is submitted that the confidence thus  
25 shown in ARAKI by his fellow conspirators after all  
these years of aggression is very significant of their

confidence in him."<sup>1</sup>

1 Brigadier Quilliam, on October 21, 1946,  
2 in the opening statement for the prosecution which  
3 dealt with general war preparations, stated in the  
4 section dealing with general military preparations,  
5 as follows:

6 "Significant evidence of the aggressive  
7 intentions of Japan is obtained from the function and  
8 scope of the General Mobilization Law. This law,  
9 which has already been produced in evidence as court  
10 exhibit 84, was adopted in 1938. . . It is not too  
11 much to say that by the adoption of this law Japan  
12 at one stroke became a totalitarian state and finally  
13 committed herself to a policy of aggression and ex-  
14 pansion. . . It is obvious that without those powers  
15 the war preparations could not have been made."<sup>2</sup>

17 Consequently, if ARAKI did hold the important  
18 post of President of the National General Mobilization  
19 Committee during this period the prosecution's inter-  
20 pretation was, perhaps, inevitable.

21 However, on the other hand, if ARAKI had  
22 never had this post, the prosecution's conclusion  
23 should have crumbled right then and there and the  
24

25 1. Tr. 16809.  
2. Tr. 8197-8198.



1 result should have been a completely reversed con-  
2 clusion; namely, that because ARAKI did not approve  
3 of criminal conspiracy for the purpose of world  
4 domination and because he did not give active  
5 support thereto, he was not appointed to such im-  
6 portant posts and the conspirators showed no confi-  
7 dence towards him. The prosecution has clearly  
8 stated that they were mistaken and that it should  
9 have been the President of the National General  
10 Spiritual Mobilization Committee. They further  
11 stated that neither this Committee nor its President  
12 were being charged with any crimes.<sup>1.</sup>

13 At this juncture we were able to find the  
14 basic cause and the answer to a question we have had  
15 in our mind for a long time. The question is, why  
16 was the prosecution under an utterly reversed  
17 hallucination in thinking that ARAKI was a strong  
18 power behind TOJO? This serious illusion and the  
19 misunderstanding of the interrogation by the prosecu-  
20 tion are both errors, undoubtedly because of two  
21 different languages, and is in addition a glaring  
22 example of the difficulties to be confronted in an  
23 international trial.

24 1. Tr. 28536.  
25

1 (4) The fourth phase of the suspicions  
2 maintained against ARAKI deals with the prosecution's  
3 argument.

4 When the prosecution heard ARAKI's speech  
5 in the film "Critical Period for Japan," and when  
6 they realized their mistakes in his interrogation  
7 after hearing his explanation in paragraph 28 of  
8 his affidavit,<sup>1</sup> and after finding out that he was  
9 not the President of the National General Mobiliza-  
10 tion Committee but was merely the President of the  
11 National General Spiritual Mobilization Committee,  
12 which was only a movement for the improvement of  
13 national livelihood, we were confident that they  
14 would drop their charges against him. However,  
15 they have continued to maintain these charges  
16 against him, and, to say the least, it is most  
17 regrettable.

18 The Key to Clear the Suspicions Against ARAKI.

19 If the following questions are studied the  
20 suspicions cast on ARAKI, we are certain, will be  
21 clarified.

22 What was ARAKI's reaction toward the  
23 October Incident?

24 According to the testimony of witnesses

25 1. Tr. 28221, Ex. 3161.



1 HASHIMOTO, Kingoro,<sup>2</sup> and WACHI,<sup>3</sup> since ARAKI was  
2 a man of character they attempted the October  
3 Incident, hoping to flaunt him as a figurehead, that  
4 is to say, as the Prime Minister, but instead they  
5 were reprovved by him and had to cancel the plan, and  
6 were themselves taken into custody.<sup>4</sup>

7 (6) Why did ARAKI carry out his purge  
8 within the Army when he became War Minister?

9 ARAKI in his affidavit states that he  
10 carried out a personnel purge.<sup>5</sup> If he did incite  
11 the so-called political assassins as the prosecution  
12 concludes, why would he have purged them? It is his  
13 contention that he did this to calm the excitement,  
14 to stabilize the nation, and to promptly terminate  
15 the Manchurian Incident.

16 It is the further contention of ARAKI that  
17 in his advocacy of Kodo he endeavored to teach the  
18 Japanese spirit of benevolence and that he further  
19 endeavored to awaken the people of Japan, who were,  
20 while the world was facing a period of confusion, in  
21 a state of utter decadence and illusion. His purpose  
22 was to have them reflect upon themselves as one of  
23 the fellow nations of the world, so that this  
24

25 2. Tr. 28795, Ex. 3195. 4. Tr. 28791, Ex. 3195.  
3. Tr. 19667, Ex. 2424. 5. Tr. 28149, Ex. 3161.

awakening would hastily extinguish the Manchurian Incident and prevent a full scale Sino-Japanese War.

(7) Why was it that the Shimpeitai attempted to assassinate ARAKI? The Shimpeitai, which was arrested on July 12, 1933, attempted to assassinate all the ministers of the SAITO Cabinet, including ARAKI, holding that the disposition of the Manchurian Incident was too weak-kneed.<sup>1</sup> It was an explosion of the pent-up dissatisfaction of the extreme rightist group over the fact that the Manchurian Incident was brought to a conclusion to prevent a full scale Sino-Japanese war and that the Manchukuo Government was not made a puppet regime.

THE PRESIDENT: You are entering a new phase really, so this is a convenient time to adjourn.

We will not sit after 2:45 p.m., but at that time will adjourn until Monday next.

We will adjourn now until half-past one.

(Whereupon, at 1200, a recess was taken.)

1. Tr. 1636, ex. 165

## AFTERNOON SESSION

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The Tribunal met, pursuant to recess, at 1330.

MARSHAL OF THE COURT: The International Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Mr. McManus.

MR. McMANUS: I shall continue, if the Court please, at page 11, paragraph (8) (reading:)

(8) Why did ARAKI resign from his post of War Minister?

ARAKI was taken seriously ill on January 1, 1934 and for a time he was in a critical state. When he regained his health, somewhat considerably,<sup>1</sup> Premier SAITO and the members of his cabinet and even the Army circles asked him to remain in office. However, he resigned his post for the following reasons:

1. From the beginning, the outbreak of the Manchurian Incident gave ARAKI serious worries, but his position was related to education, which had nothing to do with the Incident.

1. T. 28,430, Ex. 3,166



1 (2) Nevertheless, when finally the Incident  
2 developed into a serious situation ARAKI was called  
3 upon to undertake the important task of clearing up  
4 the trouble and he finally succeeded in settling the  
5 matter, once and for all, before it exploded com-  
6 pletely. However, it is ARAKI's contention that his  
7 true intention was not merely the settlement of the  
8 Manchurian Incident but a far more important matter  
9 was on his mind.

10 (3) He states that his true ideal was the  
11 future stabilization of Japan which was in a tempest,  
12 and the establishment of peace and good will in the  
13 Far East.

14 (4) In his affidavit he said that he had in  
15 mind, for a long time, a plan <sup>1</sup> to establish this a  
16 national policy, and that as soon as he was able to  
17 place under control the troubles in Manchuria he  
18 started to work on this aforementioned plan.

19 (5) In the middle of this task he was taken  
20 suddenly ill, and while he did recover he was unable  
21 to be active. <sup>2</sup>

22 (6) A chance for presenting this plan to the  
23 Diet could not be overlooked, but because of his  
24

- 25 1. Tr. 28,157, Ex. 3161  
2. Tr. 28,430, Ex. 3166

1 illness he was compelled to resign, but not before  
2 entrusting this matter to others, making for its  
3 materialization. "Basic Suggestions for Emergency  
4 Policies" presented to the Prime Minister was one  
5 of them.<sup>1</sup>

6 In other words, in his mind the Manchurian  
7 Problem was not the main question. When the fight-  
8 ing ceased it would be settled. His one desire was  
9 the promotion of good will and peace, and because of  
10 this ardent intention, he placed reliance on his  
11 successor and resigned his office.

12 (9) Why was ARAKI forced out by the Army?

13 In Paragraph No. 12 of his affidavit, ARAKI  
14 states, "In the meantime, things completely turned  
15 to the worse, and after two years from the time of  
16 my resignation, the 2.26 Incident forced myself and  
17 other senior members of the army to leave active  
18 service altogether."<sup>2</sup>

19 The prosecution in its exhibit No. 93<sup>3</sup> also  
20 admits that the Army shut out those men. It is the  
21 accused ARAKI's contention that the basic reason for  
22 this was because he was strongly opposed to the ten-  
23 dency at that time of falling blindly toward pro-  
24

- 25  
1. Tr. 28,446, Ex. 3166  
2. Tr. 28,163, Ex. 3161  
3. Tr. 506, Ex. 93

1 Fascism and pro-Germany and Italy, owing to over-  
2 zealousness towards "national control."

3 (10) Why did ARAKI join the First KONOYE  
4 Cabinet?<sup>1</sup>

5 The reason according to the accused why a  
6 retired General, purged from the Army, became a  
7 Cabinet Councillor and the Education Minister of  
8 the First KONOYE Cabinet was because the Premier,  
9 Prince KONOYE, much concerned over the outbreak of  
10 the China Incident, wanted ARAKI, who had so success-  
11 fully terminated the Manchurian Incident, to endeavor  
12 once again to settle this further disturbing dispute  
13 between China and Japan.<sup>2</sup>

14 (11) Why did ARAKI turn down the offer of  
15 the Home Minister post in the YONAI Cabinet?

16 When asked to enter the YONAI Cabinet as  
17 Home Minister, ARAKI refused, stating that from his  
18 experience in the KONOYE and the HIRANUMA Cabinets,  
19 he was well aware that he would be of no use what-  
20 ever as a civilian minister of state.<sup>3</sup>

21 (12) Why did ARAKI break off his relation  
22 with Prince KONOYE?

23 According to the witness TOMITA, Kenji, owing  
24

- 25  
1. Tr. 688  
2. Tr. 28,203, Ex. 3161  
3. Tr. 28,217, Ex. 3161



1 to strong opposition<sup>1</sup> by ARAKI over the questions  
2 concerning the Tripartite Alliance and the Imperial  
3 Rule Assistance Association, relations between  
4 Prince KONOYE and ARAKI<sup>2</sup> officially became, for  
5 the time being, severed.

6 It is clear from this fact alone how strong  
7 his opposition was to Fascist control, and further  
8 from this fact, we ask the Tribunal to consider the  
9 accused's sincerity in his endeavor to avoid the  
10 danger of a Tripartite Pact from an international  
11 point of view.

12 Now, if the Tribunal please, it is one con-  
13 tention that when the facts herein above are cor-  
14 rectly weighed, the Tribunal must conclude that  
15 every one of the charges listed by the prosecution  
16 against ARAKI have been based upon a complete mis-  
17 understanding.

18 Chapter 2.

19 The Conspiracy Charge and ARAKI.

20 (1) In regard to conspiracy, Mr. Keenan in  
21 his opening address argues various points in great  
22 length, which may be summarized as follows:  
23

24 (1) Its purpose was criminal or unlawful;

25 2. Tr. 28,550, Ex. 3172  
1. Tr. 28,546, Ex. 3172

1 (2) Even if this purpose, in itself,  
2 was not so, its means were criminal or unlawful;

3 (3) The gist of the crime is the  
4 confederation or combination of minds;

5 (4) It is constituted by an agreement;  
6 it is, however, the result of the agreement and not  
7 the agreement itself.

8 He further argued that the object of the  
9 charges "was of aggression, and that this was a crime  
10 under International Law." Argument of Law is a  
11 general matter and not for individual defense. How-  
12 ever, Mr. Keenan laid a foundation by stating that  
13 International Law was the product of justice, human-  
14 ity, and the sense of right and wrong, and originated  
15 from the so-called "Natural Law." He further goes on  
16 to quote from Webster's New International Dictionary,  
17 Second Edition, Unabridged, 1943, what is generally  
18 known to all.

19  
20 The Chief Prosecutor then enumerates the  
21 following as the general facts of conspiracy:

22 (1) The design to instill and encourage  
23 militaristic spirit;

24 (2) That the future progress of Japan  
25 was dependent upon wars of conquest;

(3) Initiating and organizing ultra-

~~nationalistic plans;~~

1           (4) That all Japan's foreign policies  
2 ever since the Russo-Japanese War were either for  
3 preparation or for the execution of wars of aggres-  
4 sion which was a conspiracy with the Army as its  
5 centre;

6           (5) And finally, lists the various  
7 occurrences of the 18 long years between 1928 and  
8 1945.

9           The conclusion reached from the above is that  
10 it will be necessary to study whether the individual  
11 charged (1) had the intention and purpose of aggres-  
12 sion; whether (2) the means amounted to aggression;  
13 and whether (3) the gauge for measuring this is in  
14 accordance with the Natural Law of justice and human-  
15 ity.  
16

17           As we have stated in the chapter before,  
18 whatever was the nature of the incidents he faced,  
19 ARAKI never had the intention of aggression. His  
20 object was always justice, peace and humanity. He  
21 fought for this and succeeded in the initial step,  
22 establishing peace based upon justice and humanity,  
23 by putting an end to fighting.

24           From this broad viewpoint it is clear that  
25 the charge against ARAKI as a participant in a con-



1        spiracy is completely misdirected.

2                2. The contention of the prosecution as  
3 to ARAKI in the case of conspiracy is not quite clear.  
4 It seems that they list in general the following  
5 items, based upon their general principles of con-  
6 spiracy as already stated.

7                (1) He propagated, educated, and in-  
8 cited world domination.

9                (2) He planned and executed the occu-  
10 pation of the Four Eastern provinces.

11               (3) He set up, recognized, and led a  
12 puppet government.

13               (4) He dispatched troops to Shanghai  
14 and intended the aggression of Central China.

15               (5) He took actions in violation of  
16 International treaties.

17               (6) He participated in the China  
18 Incident.

19               (7) He planned and executed aggression  
20 against the Soviet Union;

21               (8) He also planned aggression against  
22 the United States and Great Britain.

23               3. Furthermore, the prosecution contends  
24 that the participation by ARAKI in the conspiracy  
25 begins, at least, from the time he became War

Minister. Their reason for this being that (1) he was responsible because he accepted the post of War Minister knowing that a "military policy" was already in effect; and that (2) thereafter, he fully participated in this conspiracy by ordering aggressive actions.

3. The outline of our reply to the prosecution's contention.

(1) ARAKI had no intention of world domination and never participated with any person, including any of the accused in this case, in a conspiracy for wars of aggression. The purpose of his actions were to stop wars and establish a way for peace and humanity, and therefore he naturally never propagated, educated, nor incited aggressive war. What ARAKI emphasized, based on peace and humanity, was the ideas of KODO, which is founded on benevolence and the inherent freedom of men which is diametrically opposed to ideas of aggression. A careful consideration of the speech in the prosecution's film "Critical Period for Japan" alone, will clarify this. However, this matter will be dealt with in detail separately. In addition we wish the attention of the Tribunal to be directed to the fact that ample documents in connection with this matter were prepared and tendered,

but, unfortunately, most of them were rejected.<sup>1</sup>

(2) The prosecution seems to contend that ARAKI as an important member of the Kokuhonsha conspired together with the accused HIRANUMA, KOISO<sup>2</sup> and others in regard to political maneuvers.

(HARADA Memoirs) This matter will be discussed in detail in the specific reply to Paragraph AA-4 of the prosecution's summation.

ARAKI never planned or executed the occupation of the Four Eastern Provinces. He acted strictly in accordance to the policy of the INUKAI and SAITO Cabinets, which was to promptly terminate the fighting and establish peace and order in these provinces. After a year and a half he was able to attain this objective. The military actions taken were the minimum necessary, and inevitable, for the purpose of maintaining local public peace. The fact that no aggressive plans of occupation existed has been made clear by our counter-evidence (which will be discussed in the subsequent paragraph dealing with the Manchurian Incident.)

The prosecution relied upon ARAKI's interrogatory. This evidence we contend has no value whatsoever.

1. Tr. 28,590    2. Tr. 37,492, Ex. 3753;  
Tr. 37,560, Ex. 3754-A



1           (3) The independence of Manchukuo came  
2 about by the voluntary actions of the local people  
3 themselves, and its object was to recover peace and  
4 order and terminate further fighting. The various  
5 treaties concerning its independence, recognition,  
6 and so forth, were left in the hands of the diplomatic  
7 channels of the Foreign Ministry. The Army, in regard  
8 to its guidance and assistance to Manchukuo, strictly  
9 limited it to its initial mission, namely, the  
10 maintenance of peace and order, and the newly arisen  
11 problems of national defense. The prosecution ten-  
12 dered exhibit 222 and several other documents, but  
13 these are not sufficient, we submit, to support their  
14 contention; and especially as a basis for proving  
15 ARAKI's personal responsibility they are futile.  
16 These points will be argued in full later.

18           (4) The dispatch of troops to the Shanghai  
19 area was carried out in pursuance of the Cabinet's  
20 policy to protect the local residents and to deliver  
21 the Navy from imminent danger. However, even while  
22 the truce negotiations were being conducted, the  
23 withdrawal of troops began, and together with the  
24 conclusion of the agreement, the general withdrawal  
25 was also concluded. This withdrawal was, in fact,

1 due to ARAKI's own insistence.<sup>1</sup>

2 (5) ARAKI has never taken any actions in  
3 violation of International Treaties. In regard to  
4 military actions in Manchuria, as we have previously  
5 stated here, when ARAKI became War Minister Manchuria  
6 was already a scene of fighting and disturbances.  
7 Actions were taken on the basis of the "reserved  
8 right to suppress banditry" of December 10, 1931, and  
9 was in accordance with the right of self-defense to  
10 save the Japanese residents and the troops in Man-  
11 churia from danger. The Lytton Report shows how  
12 critical the situation was at the time, and actions  
13 had to be taken from the standpoint of self-defense.  
14 These military actions, the independence of Manchukuo  
15 and its recognition were all in accordance with the  
16 studies and investigations made by the Foreign  
17 Ministry and the policy of the Government. The  
18 Government came to its decision after being informed  
19 that it would not be in violation of treaties,<sup>2</sup> and  
20 after considering the result of the above-mentioned  
21 research. ARAKI, as War Minister, carried out his  
22 initial duty of maintaining peace and order within  
23 the limits of this decision. He was already at this  
24

25 1. Tr. 37,618, Ex. 3768-A; Tr. 28,140, Ex. 3161;  
Tr. 28,461, Ex. 3168.  
2. Tr. 28,150, Ex. 3161.

1 time, greatly concerned with the problem of how to  
2 stop the fighting, and used the minimum number of  
3 troops without extensive manipulation and without  
4 mobilization.<sup>1</sup>

5 (6) As regards the China Incident, by re-  
6 quest of Prince KONOYE, ARAKI as Cabinet Councillor  
7 and as Education Minister exerted all efforts to  
8 bring about a prompt termination, but denied the  
9 scope in which to exercise his powers, he had no  
10 opportunity and was unable to attain this objective.<sup>2</sup>

11 (7) He never planned nor carried out aggres-  
12 sion against the Soviet Union. On the contrary, he  
13 was greatly concerned over the advance of the Comin-  
14 tern from the point of view of safeguarding the  
15 national polity. The armed clashes at the border  
16 around Changkufeng and Nomonhan have nothing to do  
17 with this issue. This will be discussed in the  
18 chapter dealing with the Soviet Union.  
19

20 (8) The advance into French Indo-China, and  
21 such other matters relating to Hainan Island and the  
22 Spratley Islands were taken up at the Five Ministers'  
23 Conference and, as Education Minister, ARAKI did not  
24 participate. Actually, the occupation of French

25 1. Tr. 28,168, Ex. 3161  
2. Tr. 28,203, Ex. 3161



1 Indo-China took place after he left public office.

2 (9) He never had aggressive intentions to-  
3 wards the United States and Great Britain. FurtherO  
4 more, the prosecution has not been able to prove on  
5 what this contention is based. A reading of exhibit  
6 3766,<sup>1</sup> and exhibit 3767,<sup>2</sup> is sufficient to clarify  
7 this point, and his determination is clearly stated  
8 in the "Outline of Emergency Measures."<sup>3</sup>

9 (10: The prosecution's view that ARAKI's  
10 time of entering the conspiracy was the time he be-  
11 came War Minister is a grave mistake. Before he be-  
12 came War Minister his duties (Chief of General Af-  
13 fairs Bureau of Military Education) did not keep him  
14 sufficiently informed about the current situation and  
15 he accepted the post following the recommendation by  
16 the "Three Army Chiefs."<sup>4</sup> After his acceptance, as  
17 already stated, he took actions to maintain peace and  
18 order and to stop the fighting in Manchuria, disre-  
19 garding the strong arguments of the political and  
20 military circles, but carrying on according to his  
21 ows ideas; and after a year and a half was able to  
22 attain his purpose. The only things he did after  
23

- 24 1. Tr. 37,612, Ex. 3766  
25 2. Tr. 37,612, Ex. 3767  
3. Tr. 28,446, Ex. 3166  
4. Tr. 28,127, Ex. 3161

1 becoming War Minister were to terminate hostilities  
2 and straighten out matters. Instead of having any  
3 aggressive intentions, he actually took positive  
4 measures for peace. Therefore, it is absolutely  
5 untrue to say that he participated in aggressive con-  
6 spiracy. When one considers the measures he took  
7 after the fighting in Manchuria was stopped, such  
8 as his attempt to have everything settled by a  
9 Far Eastern peace conference, and his complete with-  
10 drawal of troops from Shanghai, maintaining that  
11 peace and order can be kept without them, which  
12 surprised everyone even at that time, it will be  
13 realized that the facts themselves prove that he did  
14 not join any aggressive conspiracy.  
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## 5) Our reply to the prosecution's evidence.

1 Some evidence has been tendered by the prosecu-  
2 tion concerning the points mentioned above. However, no  
3 evidence has been tendered which proves that ARAKI con-  
4 spired with others for the purpose of world domination.  
5 Instead, it made clear the cause of the prosecution's  
6 misunderstanding, and established the fact that he had  
7 no intention of aggression or world domination, but was  
8 actually exerting his effort for a purpose exactly  
9 opposite to it. Arguments regarding the evidence in  
10 connection with ARAKI's action subsequent to the  
11 Manchurian Incident will be submitted in a later chapter.  
12 In the following paragraphs we shall reply to the  
13 prosecution's evidence concerning propaganda, education  
14 and incitement in relation to conspiracy.

A. Propaganda.

16 Exhibit No. 148, the film "Critical Period for  
17 Japan."<sup>1</sup> (The defense considers this film to prove  
18 the fact that ARAKI's ideas were opposed to aggression,  
19 and for this reason will go into detail.)  
20

21 The prosecution stated that this was a propaganda  
22 film of a vicious type<sup>2</sup> and in connection with this  
23 that ARAKI should have been the government's spokesman

24 1. T. 3,155  
25 2. T. 1,185



1       te the public.<sup>1</sup>     Explanation as to whether this is,  
2       in fact, a vicious propaganda film or not, seems to be  
3       unnecessary since the Tribunal has already seen it.  
4       Furthermore, as indicated in Part I (which was not  
5       projected but is definitely in evidence) this film was  
6       made arbitrarily by the Mainichi Shimbun, merely using  
7       ARAKI's speech as its subject. Witness MIZUNO also  
8       testifies in effect that every bit of responsibility  
9       for the making of this motion picture is on the Mainichi  
10      Shimbun.<sup>2</sup>

11             If ARAKI is to be responsible for this film,  
12      some kind of proof, such as that he recorded the speech  
13      after the film itself was made, or that he gave detailed  
14      instructions at the time of its filming, or that he had  
15      something to do with its editing, must be established.  
16      Unless this is done he cannot be held responsible. The  
17      substance of his speech, in outline, is that he shows  
18      Japan's position at the time and asks the public to  
19      reflect upon it. Up to Part VII, this is merely  
20      repeated. After this, that is, in the latter half of  
21      this film, he preaches KODO as a way to safeguard Japan  
22      and its morals in accordance with the august policy  
23      indicated by the Imperial Household, explaining the true  
24      

25       1. T. 16,806

      2. T. 18,622

1 meaning of national defense and the intrinsic nature  
2 of the Imperial Armed Forces. And in conclusion he  
3 prays for world peace brought about in cooperation  
4 with Europe and the Americas.

5 In Part II he gives the bare facts of the  
6 current situation at the time in the Far East, without  
7 any ostentation.

8 In Part III, deploring the slackness of the  
9 time, he asks the Japanese people to reflect on them-  
10 selves, saying:

11 "We, the Japanese people, surpass all other  
12 peoples of the world in our fervent love for peace and  
13 in our respect for justice and honor.

14 "Truly, this is the great spirit of the found-  
15 ing of our Empire and is the fundamental consciousness  
16 of our whole race.

17 "The gates of our country were opened in the  
18 great reformation at the time of the MEIJI restoration,  
19 when the true aspect of Japan was revealed to the whole  
20 world.

21 "Ever since then Japan has been advancing with  
22 rapid strides, taking her stand for righteousness and  
23 with firm resolution to spare nothing for the sake of  
24 peace."  
25

In Part IV he warned those among the people who

1 were utterly insensible, saying that the ruinous and  
2 corruptive conditions brought about by the flippant  
3 profligates caused Japan to be looked down upon,  
4 continuing to say that this was the real cause of the  
5 Manchurian Incident, deploring same, and also saying  
6 that this was the reason for Japan's solitary position  
7 in the world, "the seed of which I do not hesitate to  
8 sav, was sown by our own hands." This latter statement,  
9 of course, the Tribunal must consider as a condemnation  
10 of those people who placed Japan in such a position.

11 In Part V, he asks, ". . . what does it mean  
12 to have the consciousness of being Japanese? What is  
13 the true nature of Japan?" And says that it is the  
14 spirit represented by the Three Articles of Imperial  
15 Regalia which symbolize Justice and honor, benevolence,  
16 and courage and decision. These are "the great ideals  
17 of our Empire." "These are our national virtues,  
18 which the Emperor himself has set up as his ideals."  
19 "This is the so-called Imperial Way /KODO/." "To  
20 protect this Way, to make it more glorious and to advance  
21 in this manner should be the only ideal and duty of  
22 Japanese subjects."

23 In Part VII he states:

24 "To explain national defense in a few words,  
25 I say that it is the defensive abilities of a country,



1 that is, the defense of the way of the nation. A  
2 country or a nation has its own way, the way of our  
3 country is . . . the Imperial Way. In short, the  
4 army of our country is the Emperor's army, which is,  
5 at the same time, the national army. Therefore, I  
6 consider the army as the essence of the national  
7 virtues. To tread on the path of the Emperor is the  
8 spirit by which our army is organized. That is, the  
9 spirit of the Japanese forces is realized when they  
10 enhance the national virtues, the ideals of the Emperor,  
11 in compliance with the spirit of the Emperor who commands  
12 them. This is the reason why the Japanese army never  
13 starts an act unless being commanded by the Emperor."

14 A further quotation: "The purpose of fighting  
15 is solely to observe virtue and to carry it out.  
16 Naturally, it is necessary to win, but if the victory  
17 should be accompanied by the resentment of the people  
18 conquered, it is quite adverse to the spirit of the  
19 Imperial Army. If our troops are stationed in a certain  
20 place, they must try to be admired and respected by the  
21 natives of the place. That is the true spirit of the  
22 Imperial Army, through which the glory of our nation  
23 will be enhanced."

24 How now can it be said that ARAKI taught and  
25 encouraged aggression to the army? It becomes clear that

1 he endeavored to raise the army's moral value. It proves  
2 that he did everything to raise the morals of the troops  
3 and induce the people to reflect on themselves, hoping  
4 for eternal peace and goodwill with all nations.

5 In Part IX he emphasizes the importance of the  
6 spiritual element, quoting from the following passage  
7 in the "London Times", addressed to the Japanese after  
8 the Russo-Japanese War: "The victory you won in the  
9 recent Russo-Japanese War is indeed due to the spiritual  
10 union of the Japanese."

11 Part X, if your Honors please, it is our  
12 contention, does not contain ARAKI's speech.

13 In Part XI, ARAKI, quoting the proverb, "Adversity  
14 makes a man wise," encourages the people as follows:

15 ". . . the true spirit of the Japanese race  
16 lies in finding order amid chaos and in realizing an  
17 ideal world.

18 "Today, Manchuria is called the life-line of  
19 our country, but it is not a life-line to satisfy mere  
20 appetites for food. . .

21 "We must look, we ought to look upon Manchuria  
22 as a moral life-line."

23 It shows, if the Tribunal please, that between  
24 this ideal of ARAKI's and the subsequent development of  
25 Manchukuo there existed a wide gap. When one reads

1 ARAKI's affidavit<sup>1</sup> this fact becomes very clear.

2 Therein it is stated by him the following:

3 "The development of Manchukuo after that was  
4 not quite as it should have been. Dissatisfied with  
5 this state, I refrained from attending the 10th annivers-  
6 ary celebration of its foundation."

7 In Part XII he concludes his speech by saying:

8 "My compatriots whom I love and honor. . . I  
9 firmly believe that with Europe and the United States we  
10 can bring about everlasting peace in the whole world."

11 All this shows, if the Tribunal please, that  
12 ARAKI never thought of world domination, but actually  
13 said, in his conclusion, that if the Japanese were sincere  
14 and patient the future of Asia would be bright and that  
15 peace could be brought about by joining hands with  
16 Europe and the United States.

17 The prosecution produced the witness MAKAI,  
18 Kimbei to prove the viciousness of this picture. However,  
19 as he stated himself, when this film was produced he was  
20 still a middle-school student, two years before he enter-  
21 ed the company.

22 It is our contention, if the Tribunal please,  
23 that he was not qualified to talk about its production  
24

25 1. T. 28,153, Ex. 3161  
2. T. 1,190



1 or discuss its propaganda value. As for his criticisms,  
2 he states that the most aggressive part was where a silly  
3 cartoon showed a small Japanese plane eliminating all  
4 planes of other nations.<sup>1</sup>

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1. T. 3,196

Defense witness MIZUNO, Shinko, was the man responsible for the production of this film, as the Chief of the Motion Picture Department of the Mainichi Shimbun, and as the actual man who did the general<sup>1</sup> direction at the time of its filming.

This witness testified as to the objective<sup>2</sup> of the production of the film and the reason for the use of ARAKI's speech. The gist of his testimony was that after the outbreak of the Manchurian Incident Japan became diplomatically isolated in so far as international relations were concerned, while internally there was a great deal of ideological confusion caused by the infusion of Communism and totalitarianism.

To bring order out of this chaotic state, it was decided to make a suitable motion picture, and after a lengthy discussion at a senior officers' conference of the newspaper it was decided that "among all men, whether of the military field or non-military, that the then War Minister ARAKI was the most moderate and the most neutral in his thinking."<sup>3</sup>

With the actual value of this speech, together with the testimony re its production and the

1. T. 1,177; T. 18,619
2. T. 18,619
3. T. 18,622

1 responsibility therefore by witness MIZUNO, we submit,  
2 that the speech by ARAKI was not of a dangerous char-  
3 acter contending superiority of the Japanese race, nor  
4 was it a propaganda effort for world aggression as the  
5 prosecution contends. On the contrary, we submit  
6 that the film itself proves that it was an educational  
7 motion picture urging the people of Japan to peace-  
8 fully reflect upon themselves, and endeavor to show  
9 the right way to the Army, which had not at that time  
10 been able to shake of its Prussian militarism. How  
11 the prosecution came to consider this motion picture  
12 as evidence against ARAKI is still a very deep mystery  
13 to us.

14 Now, if your Honors please, continuing this  
15 first phase of "ARAKI and Conspiracy" the prosecution  
16 further attempted to connect the accused with their  
17 propaganda allegation by elucidating upon a custom  
18 which has prevailed for many years in practically all  
19 the countries of the world. The prosecution attempted  
20 to make much ado about the sale of such items as candy,  
21 ice cream, popsicles and many other such items as would  
22 appeal to children. Their contention was that the  
23 Government of Japan, particularly when ARAKI was War  
24 Minister, was sponsoring sales talks by the vendors  
25 of these items for the purpose of instilling in the



1 minds of the aforementioned children ideas of aggres-  
2 sion. I might point out to this Court that in my obser-  
3 vation and undoubtedly in any one of your Honors' this  
4 custom still prevails not only in Japan but in many  
5 other countries; but, of course, not for the purposes  
6 of propaganda as the prosecution contends.

7 Undoubtedly your Honors are well aware of  
8 the fact that when you were small boys, as I myself  
9 can vividly recall, vendors of such items above-  
10 mentioned would always endeavor to attract a group of  
11 potential youthful buyers of their appealing merchan-  
12 dise, by not only offering the merchandise itself, but,  
13 because of competition, would always dangle an addition-  
14 al attraction. I can well recollect that vendors at  
15 home would offer such items as picture cards, buttons,  
16 etc., for the purpose of having children buy their  
17 wares. This promoted such an interest for children  
18 that many youthful games were originated such as tos-  
19 sing or matching pictures, or making a delightful col-  
20 lection of a certain series of buttons.

21 Not only was this practice by the manufac-  
22 turers of various items confined to an appeal to chil-  
23 dren but this practice was also directed to adults,  
24 for instance, in the sale of cigarettes, such pictures  
25 or buttons were distributed with various brands of the

1   aforementioned cigarettes for the purpose of enticing  
2   the public to buy their particular brand with the  
3   ultimate aim in view that when a complete collection  
4   of possibly 50 or 60 pictures or buttons were collected  
5   they could be redeemed for any valuable prize listed in  
6   their own particular distributed catalogues.

7         These pictures and buttons depicted famous  
8   prizefighters, movie stars, battleships, famous his-  
9   torians, writers, philosophers, etc.

10         It is our contention that the prosecution is  
11   endeavoring to take advantage of this practice by  
12   various manufacturers or vendors for the sole purpose  
13   of misleading this Court into the belief that this  
14   individual competitive practice was sponsored by the  
15   Government of Japan for the purpose of aggression. We  
16   further contend that this practice not only until this  
17   present day prevails in Japan but in many other coun-  
18   tries of the world. To say that this world-renowned  
19   manufacturers' competitive practice should be charged  
20   to the Government of Japan, or more asinine, to ARAKI,  
21   for propaganda purposes, is to say the least, ridicu-  
22   lous.

23         There is not a scintilla of proof that the  
24   Government of Japan or ARAKI ever sponsored any such  
25   program for aggressive or nationalistic purposes.

1 Now, if your Honors please, continuing with  
2 this second general phase "ARAKI and the Conspiracy"  
3 we have divided this phase into four parts, namely:  
4 1. Propaganda (which has already been completed);  
5 2. Education which should be discussed now but we  
6 feel that for the convenience of the Tribunal it would  
7 be much better to discuss it later; 3. Incitement  
8 (which will be divided into five subsections; namely -  
9 "October Incident and ARAKI"; "May 15 Incident and  
10 ARAKI"; "February 26 Incident and ARAKI"; "SHIMPEITAI  
11 and ARAKI"; and "KODO and ARAKI"); and 4. Imperial  
12 Rule Assistance Association.

13 Now, taking up the conspiracy concerning  
14 "Incitement."

15 20. Minister Golunsky in his opening statement  
16 for the Russian phase used the words, "so-called  
17 young officers instigated by the defendant ARAKI and  
18 others." However, we find difficulty in discovering  
19 where this evidence is.  
20

21 Nevertheless, to preclude any misunderstanding,  
22 and for the sake of prudence, the relations between  
23 ARAKI as an individual and the so-called terrorist  
24 groups of assassins and intimidators according to the  
25 prosecution, shall be explained.

The "October Incident and ARAKI"



1 The October Incident has already been referred  
2 to in the previous section and as stated will be ex-  
3 plained in detail in the specific reply to the prose-  
4 cution's summation, Paragraph AA-5. ARAKI, while he  
5 was being set up as a leader, a figurehead leader,  
6 preached justice and moral obligations, and by so doing  
7 made them drop the attempt.<sup>1</sup>

8 31. The "May 15th Incident and ARAKI"

9 Even since the October Incident ARAKI was  
10 deeply concerned over the movements of the young offi-  
11 cers, and especially after he became War Minister he  
12 kept strict vigilance, cautioning his subordinates  
13 never to be rash or to act carelessly. This we submit  
14 is why not a single army officer, except eleven Mili-  
15 tary Academy cadets who were lured by Navy officers,  
16 participated in this Incident.<sup>2</sup>

17 32. The "February 26th Incident and ARAKI"

18 Young army officers who restrained themselves  
19 during the time ARAKI was War Minister and did not  
20 join the May 15th Incident did get involved in the  
21 February 26th Incident. These men were stirred by the  
22 various happenings within the army, such as the trans-  
23 fer of the Inspector General for Military Education,  
24 the AIZAWA Incident, the discharge of old-time officers,  
25

1. T. 19,667, Ex. 2424

2. T. 28,196, Ex. 3161

1 and so on. But they avoided ARAKI, owing to the outside  
2 propaganda. So even when War Minister KAWASHIMA recom-  
3 mended a meeting with him they refused. Since his  
4 plans were not being realized and matters in and with-  
5 out the Army were going against his ideals, ARAKI  
6 retired from the surface and kept his distance even with  
7 the Army authorities and old-time officers. However,  
8 after this Incident ARAKI and five other generals were  
9 retired from the active list, but ARAKI himself had  
10 nothing to do with this incident. When it broke out  
11 he was extremely worried for the sake of the army and  
12 did all he could to end it.

13 The defense, to prove the non-existence of  
14 conspiracy in relation to this Incident, prepared  
15 the testimony of Mr. TOLOROKI, Sakae, who was a news  
16 reporter assigned to cover the army and was well-  
17 acquainted with the situation at that time, but, unfor-  
18 tunately, his testimony was also rejected by the Tribu-  
19 nal.

20 33. The SHIMPEITAI arrested or assassinated  
21 all the cabinet members of the SAITO Cabinet, angered  
22 by the weak policy towards Manchuria adopted by War  
23 Minister ARAKI and the Premier. In the belief that  
24 it was of the utmost necessity to prove ARAKI's  
25

1 painstaking labors, in spite of opposition by extrem-  
2 ists, by which he settled the Manchurian Incident with-  
3 out letting it become an overall Sino-Japanese clash,  
4 we prepared the affidavit of witness OMORI, Sogen,<sup>1</sup>  
5 who was once a member of the SHIMPEITAI, but left the  
6 group because he was opposed to the assassination of  
7 ARAKI. This was also rejected by the Tribunal. How-  
8 ever, the HAKADA Diary (97th Entry, Sept. 9, 1933)  
9 clarifies this point, and we believe that ARAKI's  
10 attitude at the time may be judged by this. Mr. Taven-  
11 ner during the examination of witness MITAKAI stated:  
12 "The WAKATSUKI Cabinet fell, according to that individ-  
13 ual, as the result of Army pressure. The testimony  
14 introduced in regard to the INUKAI Cabinet is that  
15 there was extreme military pressure due to the position  
16 that the cabinet was opposed to the military claims  
17 in Manchuria."<sup>2</sup> The above, we submit, shows that ARAKI  
18 was not an instigator of the so-called terrorists, but  
19 tried to prevent them. He was shunned and finally  
20 became one of the marked victims of this group.

21 Further, under this incitement allegation  
22 concerning the education and guidance of young officers  
23 during his office as Commander of the 6th Division  
24 (1929) and as head of the Military Staff College, we  
25

1. Def. Doc. 2568

2. T. 17,773



1 prepared the affidavits of Witness KAWAGOE, former  
2 staff officer of the 6th Division and witness IIMURA,  
3 former senior instructor of the Army Staff College;  
4 but these documents also were rejected by the Tribunal.

5 34. "The KODO faction and ARAKI"

6 In regard to the KODO faction there is the  
7 testimony of Witness TANAKA, Ryukichi.<sup>1</sup>

8 According to Witness TANAKA, Ryukichi, there  
9 were the KODO faction and the TOSEI /Control/ faction  
10 and their aim was the renovation of the corrupt poli-  
11 tics at that time.

12 He goes on to say that the radical officers  
13 looked up to General ARAKI, MAZAKI, and YAMAGAWA as  
14 the leaders of the KODO faction, and that their prin-  
15 cipal objective was the idea of direct rule by the Em-  
16 peror, and for this reason it was entirely opposed to  
17 Communism, and he also added that they were very antagon-  
18 istic towards Soviet Russia but had no enmity towards  
19 other nations.

20 However, there did not actually exist a body  
21 or group by the name of "KODO Faction". To ARAKI  
22 and others who taught that "under the August Virtue  
23 of His Majesty the Emperor the Imperial Army should  
24 enliven our national virtue and defend the Imperial  
25

1 Way /KOLO/". The name, "KODO faction," began to be used  
2 by some one or another amongst the journalists. On the  
3 other hand, those who advocated immediate "total war  
4 formation" in the German style, were identified by  
5 someone or another as the "Control faction" /TOSEIHA/.  
6 However, in reality, there were no cliques or factions  
7 as these within the army itself. The young officers  
8 who participated in the February 26 Incident were  
9 called the KODO faction by those who created this name,  
10 but in reality they were admirers of ARAKI and MAZAKI  
11 but their ideas were substantially different from those  
12 of MAZAKI. To prove this we attempted to introduce  
13 the testimony of witness SUGANAMI<sup>1</sup>. ARAKI and the others  
14 strongly criticized the dictatorial ways of the Commun-  
15 ists and the Nazis, and as a natural result, consid-  
16 ered the March Incident and the October Incident most  
17 deplorable. The reason why no young officers partici-  
18 pated in the May 15th Incident was because ARAKI's  
19 endeavor to lead them on the right path was well con-  
20 sidered.

21  
22 When ARAKI became the War Minister, and Gen-  
23 eral MAZAKI the Vice Chief of the General Staff, and  
24 Lieutenant General YAMAGAWA the Vice Minister of War,  
25 the press called it the golden age of the KODO faction,  
1. Def. Doc. 2568

1 and it was said that the Army started to advance ser-  
2 iously towards becoming an army in accordance with the  
3 fundamental principles laid down for which it was  
4 created.

5 ARAKI and the others transferred the extrem-  
6 ists from the central army authorities and attached  
7 them to the field units with the object to suppress and  
8 calm them, and to let them have experience of the field  
9 units. They, ARAKI and the others aforementioned,  
10 skillfully managed the Shanghai and Manchurian Inci-  
11 dents, stopped the fighting and disturbances, and thus  
12 prevented a general Sino-Japanese clash.

13 In answer to ARAKI's resignation due to ill-  
14 ness, one after another of these men left their impor-  
15 tant posts and at the time of the February 26th Inci-  
16 dent not a single one of them was holding an important  
17 post in central army offices. And they, together, left  
18 active service about the time the February 26th Inci-  
19 dent occurred. Furthermore, by the adoption of the  
20 regulation providing that the War Minister must be on  
21 active service, ARAKI's way back to the Army was  
22 blocked.

23 The prosecution contends that the revival of  
24 the "War Minister Active Service" system was one of  
25 the means of the conspiracy amongst the militarists.



1 Then the prosecution plunges into an extraordinary con-  
2 tradiction by charging ARAKI, the victim, as one of  
3 the participants in this same conspiracy. The reason  
4 for Premier KONOYE bringing ARAKI in as Cabinet Coun-  
5 cillor and Education Minister was because he wanted  
6 the so-called KODO people to promptly settle the China  
7 Incident as they did in the case of the Manchurian In-  
8 cident. However, a retired general shut out by the  
9 army could do nothing and the peaceful settlement of  
10 the China Incident did not succeed. An excerpt from  
11 the KONOYE Diary ("Lost Politics") was prepared to  
12 prove this point, which was, however, rejected. Other  
13 documents dealing with the KODO faction were prepared,  
14 but these too, unfortunately, were rejected.

15 35. Imperial Rule Assistance Association

16 In Section 6 of Appendix A of the Indictment  
17 it is stated, "During this period such free Parlia-  
18 mentary institutions as previously existed were grad-  
19 ually stamped out and system similar to the Fascist or  
20 Nazi model introduced. This took definite shape by  
21 the formation (on the 12th October, 1940) of the Imper-  
22 ial Rule Assistance Political Society."  
23

24 However, defense witness TOMITA, Kenji, Chief  
25 Cabinet Secretary in the Second KONOYE Cabinet, testi-  
fied that ARAKI declined the post of Cabinet Councillor

1 because he was opposed to the establishment of the  
2 Imperial Rule Assistance Association and the conclusion  
3 of the Tripartite Alliance; and from then onwards pub-  
4 lic association between Prince KONOYE and ARAKI was  
5 discontinued.<sup>1</sup>

6 In view of what has been shown in the preceding  
7 passages we respectfully request this Tribunal to con-  
8 clude that ARAKI's intention was to establish an ideal  
9 fundamental peace - not a sham superficial peace, but  
10 a peace based on spiritual promotion through morality.

11 ARAKI puts into words his real sentiment, es-  
12 pecially at the beginning and the end of the speech he  
13 wrote himself addressed to the people of the world -  
14 namely, "Peace and Humanity of the World! May Glory  
15 be unto You!" There are many other pieces of evidence  
16 to prove this; such as his books, "Only at the Sacri-  
17 fice of One's Self!", and "Youth and Mental Training!",  
18 his radio broadcast for young boys and girls, and his  
19 speeches in the Diet. These, however, were rejected  
20 by this Tribunal as being repetitious. Since the out-  
21 line of these documents -- I shall skip that sentence,  
22 if your Honor please.

23 As a matter of fact, ARAKI, sacrificing him-  
24 self, ignoring all criticism and fame, relentlessly  
25

1. T. 28,546, 25,550

1        tried to correct the fundamental faults of the mili-  
2        tary. It is our contention that the evidence shows  
3        that he was, in actuality, taking exactly the opposite  
4        direction to that of the prosecution's allegation of  
5        conspiracy. As to Mr. Keenan's address in regard to  
6        the principles of conspiracy, it is further our conten-  
7        tion that it has been proved that no aggressive purpose  
8        ever existed re ARAKI, and that, on the contrary, his  
9        means and intention were to stop hostilities and estab-  
10        lish peace, with a fervent desire towards realization,  
11        and this, therefore, does not constitute a crime.

12                The foregoing, together with our arguments  
13        in ARAKI's individual motion to dismiss at the end of  
14        the prosecution's direct case, concludes our reply to  
15        the conspiracy charge against this accused, and I  
16        respectfully refer your Honors to transcript pages  
17        16,277 to 16,288.  
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1        tried to correct the fundamental faults of the mili-  
2        tary. It is our contention that the evidence shows  
3        that he was, in actuality, taking exactly the opposite  
4        direction to that of the prosecution's allegation of  
5        conspiracy. As to Mr. Keenan's address in regard to  
6        the principles of conspiracy, it is further our conten-  
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8        ever existed re ARAKI, and that, on the contrary, his  
9        means and intention were to stop hostilities and estab-  
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13        in ARAKI's individual motion to dismiss at the end of  
14        the prosecution's direct case, concludes our reply to  
15        the conspiracy charge against this accused, and I  
16        respectfully refer your Honors to transcript pages  
17        16,277 to 16,288.  
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1 Now, if your Honors please, the beginning  
2 of Chapter III, from page 48 to page 72, depicts  
3 the domestic and international situation at the time  
4 of ARAKI's assumption of the office of War Minister.  
5 I shall call it to the Language Section's attention  
6 that the Japanese pages are from 29 to 46. I believe  
7 that these conditions have been gone over completely  
8 and fully in the general phase of the presentation  
9 of the defense's case and, therefore, I shall omit  
10 reading same. However, I shall ask your Honor to  
11 have these pages considered as part of the summation  
12 and considered also as part of the record.

13 THE PRESIDENT: Mr. McManus, you are not at  
14 liberty to say that certain things would have been  
15 established but for the fact that documents were  
16 rejected. That is tantamount to using rejected docu-  
17 ments. If in the balance of the summation there are  
18 such statements please omit them.

19 Now at what page do we start?

20 MR. McMANUS: Page 72, if the Tribunal please.  
21 The next title will be the Formation of the INUKAI  
22 Cabinet.

23 I shall do my best to comply with your  
24 Honor's wishes.  
25

1 (The following is the portion of the  
2 summation not read but incorporated in the  
3 record:)

4 III. THE MANCHURIAN INCIDENT AND ARAKI.

5 I. Domestic and International Situation at  
6 the Time of ARAKI's Assumption of Office  
7 as War Minister.

8 ARAKI took up his duties as War Minister  
9 three months after the outbreak of the Manchurian  
10 Incident. The domestic and international situation at  
11 the time was as follows:

12 A. International Situation.

13 (36) Heavy Oppression of the USSR

14 The Lytton Report states at the beginning of  
15 Chapter One (p. 13) as follows: "The events of  
16 September 18, 1931 . . . . were but the outcome of  
17 a long chain of minor occasions of friction . . . .  
18 A knowledge of the essential factors . . . . is neces-  
19 sary to a complete understanding of the present con-  
20 flict. . . . The national aspirations of the Republic  
21 of China; the expansionist policy of the Japanese  
22 Empire and of the former Russian Empire; the present  
23 dissemination of communism from the U.S.S.R.; the  
24 economic and strategic needs of these three countries;  
25 such matters as these, for example, are factors of



1 fundamental importance in any study of the Manchurian  
2 problem."<sup>1</sup>

3 Further, in connection with the relationship  
4 between Japan, Soviet and China, the Lytton Report  
5 reads as follows:

6 "The attitude of the Soviet Government gave  
7 a strong impetus to China's nationalistic aspirations.  
8 As the Soviet Government and the Third International  
9 had adopted a policy opposed to all Imperialist Powers  
10 which maintained relations with China on the basis of  
11 the existing treaties, it seemed probable that they  
12 would support China in the struggle for the recovery  
13 of sovereign rights. This development revived all the  
14 old anxieties and suspicions of Japan towards her  
15 Russian neighbor . . . the possibility of a danger  
16 from across the North-Manchurian border again became a  
17 matter of concern to Japan. The likelihood of an  
18 alliance between the Communist doctrines in the North  
19 and the anti-Japanese propaganda of the Kuomintang in  
20 the South made the desire to impose between the two  
21 a Manchuria which should be free from both, increasingly  
22 felt in Japan. Japanese misgivings had been still  
23 further increased in the previous few years by the  
24 predominant influence acquired by the U.S.S.R. in  
25 (1. Tr. 18,666)

1 Outer Mongolia and the growth of Communism in China."<sup>1</sup>

2 Exhibit No.2373 (John B. Powell's "My  
3 Twenty-Five Years in China,"<sup>2</sup> fully reveals U.S.S.R.'s  
4 interest in Manchuria.

5 On page 211 of the said book, there is the  
6 following account: "One day I visited a parade ground  
7 and was surprised to see a regiment of Korean troops  
8 drilling and maneuvering under Soviet officers. I  
9 was told that the Korean regiment was part of the  
10 Soviet border-defence force. Later, in the vicinity  
11 of Lake Baikal, I observed even larger bodies of  
12 Oriental troops wearing the uniform of the Soviet  
13 army."<sup>3</sup>  
14

15 In those days, Japan, who, after the World  
16 War I, had fallen behind in point of armament, was  
17 profoundly menaced by the U.S.S.R., double-tracking  
18 the eastern section of the Trans-Siberian Railway,  
19 constructing the Bam (Baikal-Amur) Railway, and  
20 establishing the seat of heavy industries in the Mar-  
21 itime Province of Siberia, with Habarovsk as its  
22 center.

23 The cause of even greater anxiety than this  
24 were the activities, under the directive of the Third  
25

(1. Tr. 18,732

2. Tr. 18,420

3. Tr. 18,432-3)

International, for the internal disorganization of  
1 Japan. Mr. Besedovsky, Soviet Charge d'Affaires to  
2 Tokyo from 1926 to 1927, describes in detail those  
3 maneuvers going on during his stay in Japan. His book,  
4 "Spying on Japan," translated into Japanese, was widely  
5 read around 1931.  
6

7 It was when such a state of affairs had set  
8 the nerves of the Japanese people on edge against the  
9 U.S.S.R. that ARAKI was selected as War Minister.

10 (37) Oppression of the United States, Great  
11 Britain and the League of Nations.

12 Although the outbreak of the Manchurian  
13 Incident was occasioned by a chance occurrence, at  
14 the very root of the matter was the aggravation of the  
15 anti-Japanese tendencies in China, brought about by a  
16 lack of understanding on the part of the Great Powers  
17 towards Japan. As a matter of fact, it being impossible  
18 for Japan to take care of her annually increasing popu-  
19 lation, she had no alternative but to resort to peace-  
20 ful overseas activities by the nationals. However,  
21 the emigration of the Japanese people into other  
22 countries was prohibited. Her economic activities  
23 overseas, again, came up against tariff walls. In  
24 such a way, Japan's recourse to overseas activities,  
25 by way of a solution to the increase in population,



1 which is a natural phenomenon, was completely baffled  
2 by these two obstacles. Inasmuch as emigration and  
3 freedom of commerce are the natural requirements for  
4 the peaceful development of a nation, the denial of  
5 such giving rise to the question of how to maintain  
6 existence, various problems with regard to self-  
7 existence and self-defense are liable to ensue. Among  
8 nations, however, there exist treaties prohibiting  
9 arbitrary conduct. Nevertheless, a nation has to do  
10 something to save herself from perishing altogether.  
11 To ward off this ultimate deadlock of existence was  
12 at once the function of diplomacy and the mission of  
13 the League of Nations. However, neither showed, as  
14 it ought to have shown, much zeal for a full and  
15 fundamental solution of the matter, and the racial  
16 discrimination, the immigration law, the denunciation  
17 of the Lansing-ISHII Agreement and so on drove Japan  
18 to a most difficult situation. In fact in those days  
19 the passion for national existence was obullient among  
20 the Japanese people. ARAKI's speech "Emergency Japan"  
21 is one example. To check at once all the activities  
22 of a big nation, with more population than it could  
23 take care of, was nothing less than the taking of life  
24 given by the God. It is too selfish a way of advocating  
25 the maintenance of a status quo. Such pacifism is

1 against the natural law and morally deficient and is  
2 therefore short-lived, as history proves. It was when  
3 the anti-Japanese movements and a boycott of Japanese  
4 goods in Manchuria, following the denunciation of the  
5 Lansing-ISHII Agreement, the enforcement of the  
6 immigration law, the abrogation of the Anglo-Japanese  
7 Alliance and so on, had all but obliged Japan to come  
8 forward to grapple with the situation. It was at  
9 this time that the Manchurian Incident broke out  
10 and rapidly spread among the three countries. Upon  
11 the outbreak of the Manchurian Incident, again, the  
12 world, in utter disregard of the historical background  
13 of Manchuria, showed no sympathy. The SHIDEHARA  
14 diplomacy, presumably legitimately, aimed at dealing  
15 with various issues by peaceful means. It was but  
16 natural, however, as has been pointed out by the  
17 witness Liebert<sup>1</sup> that Japan, failing to lay openly  
18 before the other party her claims for self-existence,  
19 should only have invited for herself the others'  
20 contempt and that, ultimately, an unfortunate calamity  
21 should have occurred. It was after such a calamity  
22 had actually broken out and, furthermore, after Japan  
23 had suffered the censure of the Council of the League  
24 of Nations as expressed by 13 to 1 vote against herself,  
25

(1. Tr. 8,413)

1 that ARAKI assumed the office of War Minister. The  
2 outburst of the national emotion of the Japanese  
3 people, which resulted from many years of oppression  
4 that they had undergone and which could not possibly  
5 be subsided by such a superficial vote, gave rise to  
6 various untoward events within the country. In  
7 addition, Japan having become more and more isolated,  
8 the Japanese people were in the height of excitement  
9 in those days.

10 Confronted with such a situation, ARAKI  
11 recognized that in order to restore Japan from her  
12 isolated condition it was of major importance to urge  
13 the self-reflection of the Japanese people themselves,  
14 and accordingly he aimed chiefly at the elevation of  
15 national morality.  
16

17 (38) The State of Affairs in China.

18 It is stated in the Lytton Report as follows:  
19 "Having started upon the road of international cooper-  
20 ation for the purpose of solving her difficulties, as  
21 was done at Washington, China might have made more  
22 substantial progress in the ten years that have since  
23 elapsed had she continued to follow that road. She has  
24 only been hampered by the virulence of the anti-foreign  
25 propaganda which has been planned. In two particulars  
~~has this been carried so far as to contribute to the~~



1 creation of the atmosphere in which the present  
2 conflict arose -- namely, the use made of the economic  
3 boycott, to which reference is made in Chapter VII,  
4 and the introduction of anti-foreign propaganda into  
5 the schools." (omitted)<sup>1</sup> "As a result of this virulent  
6 anti-foreign propaganda carried through every phase  
7 of public life, the students have been induced to engage  
8 in political activities which sometimes have cul-  
9 minated in attacks on the persons, homes or offices  
10 of Ministers and other authorities, and in attempts  
11 to overthrow the Government. Unaccompanied by effective  
12 internal reforms or improvements in national standards,  
13 this attitude tended to alarm the foreign powers and  
14 to increase their reluctance to surrender the rights  
15 which are at the moment their only protection."<sup>2</sup>

16 "In the North had occurred the rebellion of  
17 General Shi-Yu-sen, supported by a hostile inter-  
18 vention on the part of the Cantonese troops in the  
19 province of Hunan; simultaneously with this inter-  
20 vention came the events of September 18th at Mukden.  
21 Encouraged by these circumstances, the Reds resumed  
22 the offensive, and before long the fruits of the  
23 victorious campaign were almost completely lost."<sup>3</sup>

24  
25 (1. Tr. 18,688.  
2. Tr. 18,689  
3. Tr. 18,702.)

1           As these quotations reveal, there were in  
2 China still a number of rival chiefs each holding his  
3 own sphere of influence, as in the days of the  
4 Revolution. It was set forth in the written opinion  
5 submitted by the Japanese Government to the League of  
6 Nations that instead of the three governments in ex-  
7 istence at the time of the conclusion of the Nine  
8 Power Treaty, China now had five, including the Com-  
9 munist Government and that they were in continual strife  
10 with each other. The pledges, made at the time the  
11 Nine Power Treaty was concluded, of the reduction of  
12 the Army and the realization of national unity had  
13 completely vanished. The preservation of the ter-  
14 ritorial integrity of China and the unification and  
15 the independence of China, which constituted the main  
16 points of the Nine Power Treaty, had not yet been  
17 attained. Under such circumstances, it was impossible  
18 to carry out the provisions of the Nine Power Treaty,  
19 however ardently one may have desired to abide by  
20 them. Further, while Mr. Chiang continually vacillated  
21 in his policies, now tolerating Communism and now  
22 opposing it, a number of untoward events, occasioned  
23 by the anti-foreign sentiment, were already taking  
24 place (at Nanking, Kewkiang, Hankow, Chinan, etc.).  
25

(39) The State of Affairs in Manchuria.  
Relations with Japan.

The Lytton Report says, "So far as Japan is China's nearest neighbor and largest customer, she has suffered more than any other power from the lawless conditions described in this chapter. Over two-thirds of the foreign residents in China are Japanese, and the number of Koreans in Manchuria is estimated at about 800,000. She has more nationals, therefore, than any other power, who would suffer if they were made amenable to Chinese law, justice and taxation under present conditions."<sup>1</sup>

We also wish to refer to the same report, Chapter III, under "Manchurian Issues between Japan and China Before September 18, 1931,"<sup>2</sup> "Japanese Investments." Japanese investment in Manchuria in 1928 reached ¥1,510,000,000,<sup>3</sup> and the Lytton Report estimated it more than ¥1,700,000,000.

Foreign Minister YOSHIZAWA in his speech at the Diet on June 22, 1932, said that Manchuria had<sup>4</sup> very important relations with Japan.

As these exhibits reveal, especially after the outbreak of the Manchurian Incident, this state

(1. Tr. 18,706.

2. Transcribed in page 1,757-62

3. Ex. 2398; Tr. 2,914

4. Ex. 2413, Tr. 19,522)



of affairs grew aggravated almost hourly. The situation was such that if Japan should be off her guard even temporarily there was no telling what damage she should suffer and in addition large-scale warfare was in the offing.

(40) The General State of Affairs.

The Military Governors, who had assumed the control over various areas, and their subordinates having already taken to flight, and the whole Manchuria having been reduced to a state of confusion, the peace preservation societies in various localities were the only means to maintain minimum peace and order.

(41) The Condition of Bandits.

The Lytton Report states as follows:

"Banditry has always existed in China and the administration has never been able to suppress it thoroughly. Lack of proper communications was one of the reasons which prevented the administration from getting rid of this evil, which increase or decreased according to changing circumstances. Another contributing cause is to be found in the local uprisings and rebellions which have often occurred in China, especially as a result of misadministration. Even (1. Lytton Report, p. 88, Chapter VI, Part 1)

1 after the successful suppression of such rebellions,  
 2 bandit gangs recruited from the ranks of the rebels  
 3 often remained active in parts of the country. This  
 4 was specially the case in the period following the  
 5 suppression of the Taiping rebellion (1850-1865).  
 6 In more recent times, bandits have also originated  
 7 from the ranks of u.paid soldiers who were not able  
 8 to find other means of living and had been accustomed  
 9 to looting during the civil wars in which they had  
 10 taken part."<sup>1</sup>

11 "As in China, banditry has always existed  
 12 in Manchuria. Increasing or diminishing in numbers  
 13 in relation to the activity or the weakness of the  
 14 Government, professional bandits are to be found in  
 15 all parts of the Three Provinces and their services  
 16 were often employed by different parties for political  
 17 purposes."<sup>2</sup>

18 (Answers given by Witness ENDO, Saburo, under cross-  
 19 examination by prosecutor Mr. Comyns Carr).<sup>3</sup>  
 20 Affidavit of KAWABE, Torashiro, Court Ex. 2489-B.<sup>4</sup>

21 (42) Chang Hsueh-liang and his Followers.

22 Rallying scattered troops, Chang Tso-hsiang,  
 23 one of the followers of Chang Hsueh-liang, was  
 24

- 25 (1. Tr. 18,690-1.  
 2. Lytton Report, p. 150  
 3. Tr. 19,508.  
 4. Tr. 20,517)

1 continuing subversive activities in the rear, in  
2 Chinchow. The intervention of the United States and  
3 the League of Nations having caused them to regain  
4 their strength and in addition, the fact that the  
5 Japanese troops had once headed for that district and  
6 had turned back halfway having had an inspiring effect  
7 on their morale, they advanced as far as to the  
8 vicinity of Mukden and were engaged in activities sub-  
9 versive of the public peace and order there.

10 In Court exhibit 2414 (The Preliminary Report  
11 of the Commission of Inquiry of the League of Nations)  
12 it is stated that the number of these bandits totalled  
13 some 40,000.<sup>1</sup>

14 (43. The Strength of the Kwantung Army and  
15 the Number of the Japanese and Korean  
16 Inhabitants.

17 Court exhibit 2414 (The Preliminary Report  
18 of the Commission of Inquiry of the League of Nations)  
19 reads as follows: "The numbers given for the first  
20 part of December are 4,000 inside and 8,900 outside  
21 the South Manchuria Railway Zone, making a total of  
22 12,900."<sup>2</sup>

23 According to the Japanese figures, however,  
24 the number of the Japanese troops at the time of the  
25

(1. Ex. 2414, Tr. 19,536  
2. Ex. 2414, Tr. 19,533)



1 outbreak of the Manchurian Incident was given as  
2 10,400 and the total of the Japanese and the Korean  
3 inhabitants as 1,000,000 (the total of the Korean  
4 inhabitants being 800,000).

5 Furthermore, "Chapter II, Actual Situation  
6 in Manchuria" of the Preliminary Report of the Com-  
7 mission of Inquiry of the League of Nations, which is  
8 Court exhibit 2414,<sup>1</sup> the speech delivered by War  
9 Minister ARAKI before the Diet,<sup>2</sup> "The Complexity of  
10 the Manchurian Problem"<sup>3</sup> and so on give a detailed  
11 account of the special position and the prevailing  
12 conditions of Manchuria.

13 (44) The State of Affairs in Japan.

14 a. Internal Conditions in General.

15 1. The cold weather damages and other  
16 natural calamities and disasters, coming on top of  
17 the inefficiency of administration, had reduced the  
18 rural communities to the depth of misery. Besides,  
19 due to the impotency of political parties, the  
20 Japanese people were in a most wretched condition.<sup>4</sup>

21 (45) Thought Problems.

22 The aggressive policies adopted by the Third  
23 International created a serious repercussion in the  
24

25 (1. Tr. 19,532

2. Ex. 3167, Tr. 28,436

3. Page 234 of the Lytton Report.

4. Tr. 1,421-2)

1 thoughts of the general public, which gave rise to  
2 Fascistic movements.<sup>1</sup> Furthermore, the pressure ex-  
3 ercised by the League of Nations and the United States  
4 engendered among the Japanese fairly strong feelings  
5 of hostility.

6 3. Public Peace and Order.

7 It was not long after this that the March  
8 and the October Incidents, and the Blood Brotherhood  
9 Incident and the May 15 Incident closely followed.<sup>2</sup>

10 Within the country there prevailed inexpressible  
11 tenseness.

12 (46) The State of Affairs in the Army.

13 The army and the government, who, prior to  
14 the outbreak of the Manchurian Incident, failed to  
15 form a far-sighted judgment of the situation and  
16 thereby to prevent it from its inception again failed,  
17 now that the Incident had actually broken out, to  
18 dispose of it efficiently and thoroughly. To make  
19 the matter worse, the general public had for many  
20 years been indignant at the corruption of the political  
21 world. The army fell into disorder. In the army, as  
22 well as in the Government, the leaders lost all their  
23 authority over their subordinates; there was a general  
24 tendency of insubordination and of placing less  
25

(1. Ex. 179-E, Tr. 1934. being an excerpt from  
KIDO Diary

2. Ex. 165, 164; Tr. 1,639)

1 confidence in one's superiors, each going, at his  
2 pleasure, to serve whomever he liked. Besides, there  
3 was no telling when those of youthful vigor might go  
4 out of their proper limits and adopt terroristic  
5 measures. It was, indeed, a critical period for the  
6 Army.

7           Witness WAKATSUKI, in his affidavit,<sup>1</sup> set forth  
8 his thoughts and impressions, stating that everything  
9 went contrary to his wishes. Court exhibit 2392<sup>2</sup>  
10 (Speech delivered by Prime Minister WAKATSUKI).

11           In Exhibit 179-J,<sup>3</sup> which is KIDO's Diary,  
12 there is the following entry:

13           "The army is so strongly determined in its  
14 positive policy toward Manchuria that orders given by  
15 the Central Authorities may not be carried out.

16           "The Emperor has expressed satisfaction and  
17 approval to the Prime Minister and the Minister of  
18 War for the governmental policy to strive not to ex-  
19 tend further the Manchurian Incident. However, the  
20 Army is reported to have construed and to be indignant,  
21 that the Emperor's opinion had been so induced by his  
22 personal attendants.

23           "In view of such circumstances, it was  
24

25 (1. Ex. 162, Tr. 1,579  
2. Tr. 19,195  
3. Tr. 1,938)



1 decided among us that the Emperor had better not say  
2 anything further about the Manchurian policy unless  
3 he is necessitated to do so, and that the Genro  
4 (meaning Prince SAIONJI) against whom the Army harbors  
5 antipathy, had better not make a trip to Tokyo."

6       Witness KATAKURA testified that Commander  
7 HONJO, in an interview with Ambassador YOSHIZAWA when  
8 the latter was on his way home from Europe in order to  
9 assume the foreign ministership in the INUNKAI Cabinet,  
10 talked to Ambassador YOSHIZAWA on three matters. First  
11 of all, he explained about the independence movement  
12 which was rapidly maturing. Secondly, he stated that  
13 in meeting the situation then prevailing in Manchuria  
14 he would not like to see the Manchurian issue settled  
15 as a political issue between political parties for  
16 their own benefits. Thirdly, in the light of the  
17 fact that the soldiers who had devoted their best  
18 efforts in the Incident mostly came from fishing and  
19 farming villages, he hoped to see the conditions in  
20 their villages improved, and thereby to give peace  
21 and comfort of mind to these soldiers and to have  
22 the benefit of the incident spread to these villages.<sup>1</sup>  
23 This interview, which took place towards the middle  
24 of January 1932, is indicative of how difficult the  
25 (1. Tr. 19,000-1)

1 state of affairs was both in Manchuria and in Japan  
2 herself, already, in the early days of the Manchurian  
3 Incident.

4 (49) Political Situation.

5 The political parties and the bureaucracy  
6 were corrupt to the core, so much so that they were  
7 utterly incapable of meeting a national emergency.

8 Witness TOKUGAWA, Yoshichika, testified as  
9 follows: "According to my interpretation, two  
10 political parties were fighting each other at that  
11 time in Japan and the people were suffering because  
12 of that. Therefore, we endeavored to find a method  
13 to establish a new and serene Japan."<sup>1</sup>

14 In answer to Counsel ITO's question, "As  
15 the critical state of the nation which prevailed at  
16 that time was caused by the evils of political parties,  
17 financial cliques, and the privileged classes, their  
18 object was to give a blow to them in order to effect  
19 a national reform. Wasn't that so?" Witness INUKAI,  
20 Ken, who was being cross-examined, stated, "What the  
21 counsel has just said regarding the reasons behind  
22 the assassination of my father at the time of the  
23 May 15 Incident, I acknowledge."<sup>2</sup>

24  
25 (1. Tr. 1,447  
2. Tr. 1,525)

1 (48) On 28 June 1946, Witness WAKATSUKI, on  
2 cross-examination by Counsel OKAMOTO, made the follow-  
3 ing answer: "The spreading of the Manchurian Inci-  
4 dent was against the hopes of the government, and I  
5 viewed this development with great alarm and mis-  
6 giving, and I took every step possible to prevent  
7 the further expansion of this Incident." He went on  
8 to say that finally he came to the conclusion that  
9 the current government, by the Minseito Party alone,  
10 was too weak and that it would be better to realize  
11 a coalition cabinet, including also the opposition  
12 party, in order to show where the wish of the Japanese  
13 people lay and thereby to urge the Army's self-  
14 reflection. He then, according to his testimony,  
15 had the Home Minister take some steps; but all this  
16 proving a failure, the Cabinet resigned en masse.<sup>1</sup>

18 1. On June 26, 1946, Witness SHIDEHARA,  
19 Kijuro, in answer to a question put to him by  
20 Prosecutor Helm, stated as follows: "As everyone  
21 knows, the Manchurian Incident did not cease. And in  
22 spite of all the efforts of General MINAMI,<sup>2</sup> the  
23 Incident continued to develop and expand."

24 2. On 3 July 1946, in the course of a

25 (1. Tr. 1,579  
2. Tr. 1,389)



1 cross-examination conducted by Counsel KIYOSE,  
2 Witness OKADA, Koisuke, made the following replies:  
3 "The Army and Navy are a part of the Japanese Govern-  
4 ment. All of the successive Army and Navy Ministers  
5 have tried their utmost to cooperate with the inten-  
6 tions and policies of the Government. Even in spite  
7 of this there was an element of younger officers who  
8 would not toe the line;" "The leaders in the  
9 military, both army and navy, have tried their ut-  
10 most to control these elements but could not succeed."<sup>1</sup>

11 (49) As the outline in the foregoing para-  
12 graphs shows, the situation, both at home and abroad,  
13 at the time ARAKI assumed the Office of War Minister,  
14 was quite out of the ordinary. Besides, ARAKI had  
15 held the post of a divisional commander for a con-  
16 siderable length of time, on the distant island of  
17 KYUSHU, far away from Tokyo, before he came back to  
18 Tokyo towards the middle of August 1931, and became  
19 Inspector-General of Military Education, those duties  
20 had nothing to do with those complications of the  
21 situation. Without, therefore, having had time to  
22 become fully conversant with the circumstances  
23 surrounding the Manchurian Incident, that had broken  
24 out soon after his appointment as Inspector-General  
25 (1. Tr. 1,867)

1 of Military Education, he came in December to bear  
2 the brunt of this extremely difficult situation. He  
3 then devoted himself to the performance of his duties  
4 in accordance with the views of the Prime Minister  
5 concerning the measures to save the situation, and  
6 he finally succeeded in his mission of putting an  
7 end to the Incident. The written answer submitted by  
8 ARAKI to the Prosecution and entitled "The State of  
9 Affairs in Japan after the World War I and the  
10 Attitude and Movements of Younger Officers,"<sup>1</sup> gives  
11 a detailed account of Japan's domestic and inter-  
12 national situation after the World War I. This docu-  
13 ment, however, was not received in evidence. The  
14 gist of the document is contained in the supplement  
15 for reference. In order to form a judgment upon  
16 ARAKI's attitude in dealing with the situation, it  
17 is of utmost importance to grasp the general state  
18 of affairs, as set forth in the foregoing paragraphs.  
19 In connection with the disposition of the Manchurian  
20 Incident, although Lord Lytton and his party showed  
21 fairly good understanding of the affair, still they  
22 must have found it difficult to comprehend every  
23 delicate turn of the situation. As the Lytton Report  
24 itself points out, it must, indeed, have been difficult  
25 (1. Def. Doc. 674)

1 for the League Councillors fully to understand these  
2 circumstances without first observing the actual  
3 state of affairs on the spot. The preceding outline  
4 has been given in the hope that it may contribute to  
5 the proper understanding of what is to follow. Keep-  
6 ing an eye both on the general trend of affairs and  
7 on the policies of the government, disregarding all  
8 his personal interests, threading his way, so to  
9 speak, through various difficulties and deliberating  
10 both on internal and international problems, ARAKI  
11 made the best of the Manchurian Incident in its  
12 changing phases, and succeeded in putting an end,  
13 at the least possible sacrifice, to one of the most  
14 momentous issues. The repercussion of the world to  
15 ARAKI's self-sacrificing resolution and disposition  
16 of the Incident was both good and bad and he met with  
17 both approbation and reprobation, as well as current  
18 misunderstanding. In the belief that it is the duty  
19 of us counsels for defense to make this point clear  
20 to help in a fair trial against ARAKI, we have set  
21 forth in considerable detail how matters stood about  
22 the time of his assumption of office as War Minister.  
23

24 (Which was all the summation  
25 incorporated in the record but not read.)



1                   II. The Formation of the INUKAI Cabinet.

2                   (50) Prime Minister INUKAI's Mission.

3                   1. The WAKATSUKI Cabinet, despite its  
4 wholehearted efforts as heretofore set forth, collapsed,  
5 helpless to check the surging tides, so to speak, of  
6 the general state of affairs both at home and abroad,  
7 and in Manchuria as well.

8                   2. The responsibility to bear the brunt of  
9 this difficult situation fell upon INUKAI, Tsuyoshi,  
10 known in the Japanese political circles as an authority  
11 upon Chinese affairs.

12                   3. In view both of His Majesty the  
13 Emperor's confidence and of the Japanese people's  
14 expectations in him, he was under obligation by all  
15 means to settle this most difficult issue.

16                   (51) Circumstances Surrounding ARAKI's  
17 Installation as War Minister.

18                   The prosecution, through the production of  
19 Witness INUKAI, alleged as if there had been some un-  
20 customary procedure in connection with the appoint-  
21 ment of ARAKI, as War Minister. Namely, at Page 1551  
22 of the English transcript, Witness INUKAI, Ken,  
23 stated that the circumstances leading up to the final  
24 recommendation of General ARAKI as War Minister had  
25 been somewhat different from the ordinary way of

1 recommending a War Minister, that there had been  
2 another candidate, Lieutenant General ABE, and that  
3 a great number of officers of field rank, colonels,  
4 lieutenant colonels, and majors, had considered  
5 ARAKI as best fitted to the post. After all, however,  
6 Prime Minister INUKAI had recommended ARAKI to the  
7 Emperor, on his own responsibility, and for the reason  
8 that if ARAKI became War Minister there would be no  
9 gulf between the older officers and the younger  
10 officers. ARAKI at that time had no knowledge at all  
11 of such a situation. Even if the senior officers  
12 might have said something, they could certainly not  
13 have influenced the Three Chiefs of the Army or the  
14 Prime Minister to change their or his views. We  
15 attempted to prove -- I will omit that, if your Honor  
16 pleases. I will omit to the bottom of that paragraph.

17  
18 Even if INUKAI's testimony be taken at its  
19 face value, the reasons therein stated for ARAKI's  
20 appointment would point to ARAKI's impartiality and  
21 fairness and would reveal ARAKI to be the right man  
22 to bring harmony to the Army.

23 Furthermore, there was no fact of younger  
24 officers recommending ARAKI, as maintained by witness  
25 INUKAI. I will omit the next sentence to the end of  
the paragraph, if your Honor pleases.

1 We believe we have now made it clear that  
2 all the suspicions that ARAKI's installation as War  
3 Minister had been due to recommendations by younger  
4 officers or that a conspiracy had existed in connec-  
5 tion with Manchurian issues, are exceedingly  
6 prejudiced. The subsequent relations between ARAKI  
7 and the younger officers will also corroborate our  
8 position. It is, therefore, our contention that  
9 we have left nothing ambiguous concerning this  
10 point.

11 C. The Manchurian Policy of the INUKAI  
12 Cabinet.

13 (52) Prime Minister INUKAI, upon the for-  
14 mation of his cabinet, had a talk with War Minister  
15 ARAKI, who reported to him on the actual state of  
16 affairs in the army and on the situation in Manchuria.  
17 The Premier, when he got his ideas into shape, sub-  
18 mitted them to the Cabinet meeting, and there the  
19 Manchurian policy of the INUKAI Cabinet was formally  
20 determined. The following is its outline:

21 1. Emphasis should be laid as it had  
22 been laid by the preceding cabinet, upon self-  
23 defense and non-expansion, and the restoration of law  
24 and order. The termination of hostilities especially  
25 should be the fundamental policy. Since Chang  
(1. Ex. 3161, Tr. 28,131)



45,546

Hsue-liang, the violator of law and order, is the man  
to deal with, the theater of action must be restricted  
accordingly.

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1           2. Every measure should be taken to meet  
2 and make the best of the imminent danger being en-  
3 countered by those on the spot, and in order to do  
4 so, the diplomatic negotiations commenced by the  
5 former cabinet should be continued and the success-  
6 ful conclusion thereof be urged. At any rate, a  
7 fundamental policy to meet the aggravation of the  
8 critical situation and the development of the  
9 general situation should be established and the  
10 gradual extension of the scope of action be fore-  
11 stalled by all means.

12           3. A thorough explanation should be made  
13 to the League of Nations and other countries concern-  
14 ing the real state of affairs of Manchuria, and in  
15 order to gain their complete understanding investi-  
16 gation commissions should be welcomed.

17           In accordance with this decision, the War,  
18 Navy, Finance, and Foreign Ministries each discharged  
19 its own sphere of duty, always maintaining close  
20 contact with one another.  
21           1.

22           53. With regard to this policy decided upon  
23 by the INUEMI Cabinet, anybody would readily admit it  
24 to have been the only way of terminating the hostili-  
25 ties as early as possible, in order to forestall a  
1. Ex. 3161, T. 28130-31.

1 full-scale clash of arms between Japan and China,  
2 and as the Lytton Report itself recognizes. Such  
3 was the best solution to the prevailing state of  
4 affairs, so long as it was impossible for Manchuria  
5 to return to the conditions which existed before  
6 September 1931.<sup>1.</sup>

7       Witness INUKAI testified that he had in-  
8 tended to ask for an Imperial order to withdraw  
9 troops from Manchuria, which would have been a very  
10 good idea, if such a thing had been possible. As  
11 the Lytton Report itself admitted,<sup>2.</sup> however, the  
12 situation was such that the troops could not be  
13 returned to their original post. If their return  
14 should have been affected, nevertheless, and if the  
15 troops at the front (whose total strength was only  
16 about one-twentieth of the army under the command  
17 of Chang) and the Japanese residents (numbering  
18 1,000,000) should have suffered a heavy loss, which  
19 was most likely under the circumstances then prevail-  
20 ing, the Supreme Command would have been held responsi-  
21 ble. It was, therefore, not the kind of thing the  
22 Prime Minister could have executed on his own

24 1. Ex. 3168, T. 28457; Ex. 3174, T. 28582; ARAKI's  
25 handwritten statement - Ex. 3162, T. 28244.

2. At page 127 of the English text.



responsibility; he had, first of all, to obtain the judgment of the Chief of the Army General Staff. The idea itself might have been good, but not only was the contemplated method of execution erroneous but also such a step did not meet the actual requirements. It is unthinkable that such an experienced politician as Premier INUKAI should have been so thoughtless as to take such a measure. That such a forced step would have led to an unexpected expansion of hostilities has already been made clear.

Furthermore, as General MAZAKI testified,<sup>1.</sup> the Emperor, with his regard for the Constitution, would, under no circumstances, have issued an order for withdrawal, unless so advised by some leading members of the Supreme Command. And Premier INUKAI, even if he may have thought of withdrawal at one time, would not have tried to effect it. As for ARAKI, he knew nothing at all about this matter, and naturally he never expressed any opinion. It is, therefore, evident that the testimony of INUKAI, Ken, is incredible.

The fact that this policy of the central government was thoroughly understood by the personnel of the lowest rank was testified to by witness 1. Ex. 3168, T. 28458.

TANGE, Kunji, through his affidavit.<sup>1.</sup>

1                   III. Measures Adopted by War Minister  
2                   ARAKI.  
3

4                   A. ARAKI's Resolution.

5                   54. The actual state of affairs both at home  
6 and abroad and in Manchuria at the time has been  
7 elucidated in the foregoing pages.

8                   As has been pointed out, ARAKI, who had  
9 held the post of the Inspector-General of Military  
10 Education, engaged in duties having nothing whatso-  
11 ever to do with the actual handling of the situation,  
12 was now obliged to accept a position, vested with  
13 the heavy responsibility of saving a most difficult  
14 situation, unparalleled in the history of the coun-  
15 try. A gigantic responsibility of grappling with  
16 difficulties which even General MINAMI, the preceding  
17 War Minister, with all his ability and popularity, had  
18 failed to solve, now fell upon ARAKI's shoulders.

19 Besides, the die was already cast, and the whole of  
20 Manchuria had been thrown into a most chaotic state.  
21 The very fate of the Kwantung Army, to say nothing of  
22 the rights and interests of the Japanese residents,  
23 was at stake. The situation was, indeed, so critical  
24 that there was the danger that a single misstep would  
25  
1. Ex. 2422, T. 19600.

45,551

1 lead not only to a full-scale clash of arms between  
2 Japan and China, but also to a collision with various  
3 powers and the League of Nations.  
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(55) Mr. President, and Members of the  
1 Tribunal, we have no knowledge of military affairs.  
2 However, confronted with the problem of terminating the  
3 hostilities as soon as possible, in order to forestall  
4 a full-scale clash between Japan and China,<sup>1</sup> when the  
5 antagonistic sentiments were running high between  
6 the Japanese and Chinese authorities in the field,  
7 when the nationalist sentiments were extremely tense  
8 at home, and when the League of Nations and other coun-  
9 tries, who had a faulty idea of the current situation,  
10 were apt to stimulate and support China, what strategist  
11 of what country in the world could have adopted measures  
12 better than those actually and successfully effected  
13 by ARAKI?

15 We most respectfully request that in order  
16 to weigh the alleged guilt of ARAKI, the Tribunal will  
17 take full notice of what importance he attached to  
18 peace, humanity and international agreements in meet-  
19 ing the epoch-making and worldwide difficulties that  
20 he was confronted with then.

22 Now what were the measures that ARAKI took?  
23 We feel we need some reference at this stage to the  
24 basic ideal of ARAKI as expressed in Chapter 14 of  
25 his affidavit,<sup>2</sup> to which we respectfully invite the  
1. Ex. 3173, Tr. 28,557. 2. Tr. 28,170.

1 Tribunal's attention. For thirty years, ever since  
2 World War I, ARAKI has been appealing to the whole  
3 world the necessity of avoiding war, or, in case war  
4 is inevitable, of minimizing its casualties. He  
5 advocated the necessity of the establishment of peace  
6 and harmony between Eastern and Western civilization  
7 and of spiritual cultivation of conciliation and mutual  
8 sympathy. At the time when world Bolshevization and  
9 Nazism were rampantly raging, he placed the primary  
10 importance of self-defense in furtherance of moral  
11 spirit and definitely denounced the idea of expansion  
12 of territory. He has once objected to the annexation  
13 of Korea. He also objected to imperialism, monopolism,  
14 egoism and to the principle of administering control  
15 by force. He kept himself aloof from those opportu-  
16 nists who were once a dominant feature in Japan, and  
17 endeavored to gain friends in and out of Japan, who  
18 would support his principle of establishing international  
19 morality. This was most clearly manifested in his  
20 speech at Karuizawa. He was placed in the turmoil of  
21 the Manchurian Incident after it had broken out. He  
22 made a deliberate study of the situation and determined  
23 to put an end to it as expeditiously as possible.  
24

25 (56) Immediately after ARAKI's appointment  
as War Minister, former War Minister MINAMI,

Vice-War Minister SUGIYAMA and Chief of the General Staff KANAYA explained to him about the state of affairs of Japan at that time. The information ARAKI then received was as follows:

a. As had already been made public by the former cabinet, the incident had been occasioned by the illegal acts of the Chinese and Japan had merely been exercising her right of self-defense. We had striven to settle the trouble under a non-expansion policy and to maintain law and order with a minimum recourse to arms.

b. However, the conditions being excessively menacing, both the Japanese civilian inhabitants and the Kwantung Army were in great trouble. Particularly, Chinchow and its vicinity were in a most dangerous state, since the fact that the Japanese force had returned its troops from the half-way point of its campaign was utilized by the Chinese for their propaganda.

c. While the League of Nations had not appreciated the actual situation in full, the councillors' meeting had approved Japan's rightful assertion of reserving her rights of pacifying bandits and other groups of turbulent elements. It had also



decided to despatch a commission of inquiry.

1           The above is the outline of the information  
2 ARAKI received from the two sources, namely, military  
3 administration and military command, concerning the  
4 prevailing state of affairs. The rest of the informa-  
5 tion he gained is contained in his affidavit and,  
6 therefore, will be omitted here.<sup>1</sup>

7  
8           (57) As has already been set forth, ARAKI,  
9 after receiving this information, talked with Prime  
10 Minister INUKAI, who then, making up his mind and sub-  
11 mitting his final decisions to the cabinet meeting,  
12 determined the Manchurian policy of the INUKAI Cabinet.  
13 ARAKI and INUKAI, who were congenial not only in point  
14 of their unworldly character, but also in their tastes  
15 in art and culture and were able to exchange their  
16 political views in a friendly and confidential manner.  
17 ARAKI supported the Prime Minister most whole-heartedly  
18 and exerted his utmost efforts to put into execution  
19 whatever had been decided upon as the policy of the  
20 government.  
21

22           THE PRESIDENT: You are coming now to an  
23 entirely new matter. We will adjourn until half-past  
24 nine on Monday morning next.

25           (Whereupon, at 1440, an adjournment  
was taken until Monday, 29 March 1948, at 0930.)